



# EMPLOYMENT MANUAL

**A GUIDE TO SICKNESS**



**FIRST FOR JUSTICE**



# CONTENTS

<b>INTRODUCTION</b>	<b>1</b>	<b>PAGE</b>	<b>3</b>
Introduction	1.1		3
Disclaimer	1.2		4
<b>SICKNESS ABSENTEEISM</b>	<b>2</b>		<b>5</b>
Sickness Absenteeism – An Introduction	2.1		5
Sickness Reporting	2.2		6
Long Term Ill Health Absenteeism	2.3		7
Persistent Ill Health Absenteeism	2.4		10
<b>GUIDANCE LETTERS</b>	<b>3</b>		<b>12</b>
Guidance Letters	3.1		12
Back to Work Interview Form	3.2		13
Letter to Employee Requesting Consent to Write to His GP	3.3		15
Employee Consent Form	3.4		16
Summary of Your Rights Under the Order	3.5		17
Letter of Enquiry to GP (Intermittent Absence)	3.6		18
Letter of Enquiry to GP (Long Term Absence)	3.7		19
Invitation to a Consultation Meeting Following a GP Report	3.8		21
Invitation to a Capability Hearing	3.9		22
Disciplinary Outcome Letter – Informal Warning	3.10		23
Disciplinary Outcome Letter – Written Warning	3.11		24
Outcome of Capability Hearing	3.12		25
Notice of Appeal Letter	3.13		26
Outcome of Appeal Letter	3.14		27
<b>USEFUL LINKS</b>	<b>4</b>		<b>28</b>

# A GUIDE TO SICKNESS

## INTRODUCTION

### 1.1 INTRODUCTION

The Employment Manual has been written to provide you with a guide to employment procedures under UK law. It is designed to be used as a day-to-day reference tool, giving an overview of the main areas of human resource and personnel management.

**If you have a specific employment question or problem, it is important that you seek appropriate legal advice. If you have a Commercial Legal Expenses Insurance policy, you can do this by using your legal advice helpline.**

Included within the manual are suggested letters and documents for use in personnel management. These can be amended to suit your individual requirements. Your legal advice helpline will also be able to help you with this.

Please remember that employment is a changing area of the law and this manual reflects the situation at the time of writing. The Employment Manual is updated regularly to reflect changes in the law but there may be times when a part of the manual is out of date, so it is important to seek legal advice on specific matters.

**NOTE** *Throughout this manual, he also reads she, unless stipulated.*

# A GUIDE TO SICKNESS

## INTRODUCTION

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# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.1 SICKNESS ABSENTEEISM – AN INTRODUCTION

According to a recent Civil Service survey in 2014/2015 there were an average of 10.8 sick days taken per employee, equating to approximately £31.9 million in lost production.

Managing sick levels within the workplace is vital to the efficient running of your business and the aim of this guide to assist employers deal with and effectively manage the business.

Employers should consider having a written procedure for sickness reporting. This should encompass the following:

- When it is expected that the employee should report their absence and to whom
- What steps employees are obliged to take to keep the company informed during the period of sickness absence
- What medical certification the employee is required to produce, e.g. self certificate for absences of up to seven days followed by a doctor's certificate thereafter
- Upon return to work, the required reporting procedure such as the completion of a record form
- A written record of all absences (including holiday) in an easily identifiable format.

Only by having such procedures can you, as an employer, effectively review individual absenteeism.

By adopting an appropriate policy you should then be able to identify:

- Employees whose absenteeism level is above the average
- Employees whose absenteeism relates to a particular health problem
- Whether there is a pattern of absence such as at the beginning or end of a week
- Whether employees are taking sickness to use up their entitlements
- Whether employees are taking sickness where they have been refused holiday.

The two main problems encountered with sickness absenteeism are:

- (i) Long term ill health absenteeism
- (ii) Persistent intermittent absenteeism for a variety of genuine health reasons

You will need to take steps to deal with both of these problems and may wish to dismiss an employee for either of these reasons.

To do so, you will firstly have to establish that the reason for dismissal falls within one of the fair reasons to dismiss (**See section on Unfair dismissal in the A-Z guide to employment rights**).

Secondly, as an employer, you must be able to show you have acted reasonably in all the circumstances of the case in treating the reason as sufficient for dismissal. Long term ill health absenteeism comes under the category of capability whilst persistent intermittent absenteeism may come under the "some other" substantial reason category or even under the conduct category. The procedures to be followed through in each case are different and will be outlined below. For specific advice please always call your legal advice helpline.

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.2 SICKNESS REPORTING

All businesses operate differently but most businesses will agree that when an employee is off sick this will affect the normal day to day running of the business. The sooner you know about the sickness the sooner you can allocate work needed to someone else. Employers can therefore request the employee calls before their normal start time. By having a clear policy on what staff must do if they are sick this will reduce the impact on the service you require. Key elements to absence reporting are:

- What time employees must call
- What number they should call and/or who employees should call
- What information employees must give
- When the employee expects to return
- Who will cover the employee's work
- Who will keep records of staff sickness.

To help planning for staff sickness you may want to consider the following:

- Have up to date contact details for all staff so that arranging cover is less problematic
- Consider training staff or "up-skilling" staff so that there can be adequate cover
- Consider compiling a list of suitable employment agencies that can supply you with staff
- Consider having a list of casual (bank) workers who can be contacted at short notice.

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.3 LONG TERM ILL HEALTH ABSENTEEISM

#### ESTABLISHING WHAT THE CONDITION IS

Firstly, you as an employer must try to establish whether there is an underlying medical condition causing the employee's absence. By obtaining accurate information from the employee you should be able to establish whether the employee is suffering from a long term ill health condition.

As employers are not medical experts it is not often possible to determine whether the employee has a long term condition. Employers should enquire whether the condition has a particular medical diagnosis. If unsure please contact the DAS legal advice team for clarification.

#### WHY DO EMPLOYERS NEED TO KNOW THIS?

You owe a duty of care to all employees to ensure that a safe working environment is provided to all staff. Further if the Long Term Condition is defined as a disability under the Disability Discrimination Act 1995 then any less favourable treatment will amount to discrimination. Also you may be required to make reasonable adjustments to help the disabled employee carry out their job (see below).

#### MEDICAL OPINION

It is essential to seek medical opinion concerning the employee's condition. The first step is to write to the employee and ask for their consent to approach their doctor or consultant for a report.

The Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 gives employees certain rights when such a report is requested (**a summary of these rights is set out at the end of this section**).

When the employee's consent is obtained, the doctor or consultant should then be written to requesting a detailed report. The British Medical Association (BMA) and Labour Relations Agency (LRA) recommend a specific format for such a letter and a draft, following their guidelines, is at the end of this section.

#### WHAT TO DO ONCE THE REPORT HAS BEEN OBTAINED

When a report is obtained the employee needs to be contacted concerning its contents. As the employer, you need to consider this and, in consultation with the employee, assess whether the business can sustain the continued absence without causing serious operational difficulties. Alternative employment within the business needs to be considered, if there is any available more suited to the employee. You, as the employer, need to show that you have acted reasonably by obtaining sufficient medical evidence (including consulting with the employee) on the nature and likely length of the employee's illness. It is advisable to discuss each individual case with your legal advice helpline. If there are problems with the employee providing consent to obtain a relevant medical report, please discuss this with the helpline.

If no reasonable adjustments can be made, there is no likely return to work in the foreseeable future and the employer can no longer accommodate the sickness, you may be able to justify a dismissal on the ground of capability. Please note that you have an obligation to follow the statutory dismissal procedure. It is advisable to discuss with the legal advice helpline before taking any formal action.

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.3 LONG TERM ILL HEALTH ABSENTEEISM (continued)

#### REASONABLE ADJUSTMENTS

As stated above if an employee by reason of their disability is put at substantial disadvantage by the way in which you run your business the employer is obliged to consider making reasonable adjustments. The Disability Discrimination Act 1995 provided details on what amount is a reasonable adjustment.

Under the Disability Discrimination Act 1995 the adjustment can be one of the following:

#### **Provision, Criterion or Practice that puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled**

The employer will need to take reasonable steps to avoid the disadvantage.

#### **For example**

*“Providing appropriate disability awareness training for frontline staff so they can provide assistance to people with learning disabilities, blind people, deaf people, people with mental health difficulties and people with mobility impairments when these people access your service.”*

Source: <http://www.equalityni.org/Employers-Service-Providers/Service-Providers/Services/Disability#sthash.10Mu1Veq.dpuf>

#### **A Physical Feature that puts a Disabled Person at a substantial disadvantage in comparison with persons who are not disabled**

This is aimed at physical features of your workplace that may present difficulties to disabled persons.

#### **For example:**

*“Where a physical feature makes it impossible or unreasonably difficult to access services, service providers have a duty to take reasonable steps to:*

- *remove, alter or avoid the feature*
- *provide an alternative method of accessing the service.*

*Each business or organisation provides a unique service and this, in turn, affects the reasonable adjustments required to make a business accessible to as many disabled people as possible.”*

Source: <http://www.equalityni.org/Employers-Service-Providers/Service-Providers/Services/Disability#sthash.10Mu1Veq.dpuf>

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.3 LONG TERM ILL HEALTH ABSENTEEISM (continued)

#### **Auxiliary Aids**

Where a disabled person, but for the provision of an auxiliary aid, would be at a substantial disadvantage the employer is obliged to take reasonable step to ensure the auxiliary aid is provided.

#### **For example:**

*“Making changes to equipment such as providing a text phone for deaf people, installing induction loops for people with hearing loss or supplying adapted trolleys in shopping centres, etc. Making literature available in alternative formats and websites more accessible for people who are blind and/or have sight loss.”*

Source: <http://www.equalityni.org/Employers-Service-Providers/Service-Providers/Services/Disability#sthash.10Mu1Veq.dpuf>

#### **How reasonable is reasonable?**

The S.18B Disability Discrimination Act 1995 provides complicated guidance on what an employer is obliged to consider. Generally you will need to consider the following:

- how effective the change will be in avoiding the disadvantage the disabled person would otherwise experience
- its practicality
- the cost
- your organisation’s resources and size
- the availability of financial support.

Source: Equality NI Guidance

<http://www.equalityni.org/Employers-Service-Providers/Service-Providers/Services/Disability>

**Before deciding whether to adopt any adjustments you should consider taking legal advice.**

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.4 PERSISTENT INTERMITTENT ABSENTEEISM – AN INTRODUCTION

It is recognised that a poor attendance record may become a problem in your organisation and that it can be necessary and reasonable to adopt a warning/disciplinary procedure policy for dealing with high levels of absence. Ultimately if the absence continues it may be fair to terminate the employee's contract.

#### MONITORING AND IDENTIFYING INTERMITTENT ABSENCE

Intermittent absence is often seen as more disruptive to a compared to long term absence. It is therefore important for employer to have a method to ensure certain levels of absence are investigated. Investigation is essential as any discretion by management to overlook an individuals absence could lead to discrimination claims if an employee is being treated less favourably to another person who does not have a disability. It may also cause problems to enforce any procedure regarding levels of absence if they have previously been lenient.

##### Popular monitoring methods for managing sickness include:

- **Lost time calculation** – measuring absence against total working time as a percentage (for example an employee absence is 20% of his total working hours over a 12 month period)
- **Bradford Scoring** – this calculation highlights intermittent absence by scoring them higher than long term absence. The formula is  $S \times S \times D$ . S is the number of spells and D is the number of days. For example one spell of 5 days would give a score of 5 ( $1 \times 1 \times 5$ ) whereas 5 spells of 1 one day gives a score of 125 ( $5 \times 5 \times 5$ )
- **Trigger points** – having investigation when an employee has a certain pattern of absences or reaches a certain level of absences.

Once you have identified a pattern of unacceptable absence you will need to investigate all the relevant facts and review the attendance record and the reasons for the absences. A counselling interview should be conducted in the first place to attempt to assess the reasons for the absence.

#### FORMAL ACTION

If counselling does not remedy the problem then a more formal warning procedure needs to be followed through. It is important that you let the employee concerned know the following:

- that the level of absenteeism is unacceptable,
- the absence record must improve,
- the time scale of this improvement,
- to what extent improvement is expected and the consequences of failure to improve.

It is also very important to consider the explanations of employees, hence the need for personal interviews prior to the issuing of any warnings. The number of warnings required would normally be three: informal warning, first written warning and final written warning, with each clearly expressing and allowing a reasonable time period for improvement between warnings. Any formal action needs to be fair and should meet the requirements of the Statutory disciplinary procedure as set out in Employment (Northern Ireland) Order 2003 in disciplinary procedures (see the DAS guide to disciplinary action). Again, it is important to seek specific advice from your legal advice helpline.

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 2.4 PERSISTENT INTERMITTENT ABSENTEEISM – AN INTRODUCTION (continued)

#### **FRAUDULENT CLAIMS**

If you suspect that your employee is not genuinely ill then these are essentially matters of misconduct and appropriate disciplinary action should be taken. It must be borne in mind, however, that it may be difficult to establish sufficient evidence upon which to base a reasonable belief that an employee is not genuinely ill, especially if the employee provides a fit note from the GP.

If you wish to take disciplinary action for persistent intermittent absence, please read our guide on conducting disciplinary action, as it is important that you ensure you are complying with the Statutory Disciplinary Procedures.

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.1 GUIDANCE LETTERS

Below are some helpful guidance letters to help you manage sickness in your business.

- Back to Work Interview
- Letter to Employee Requesting Consent to Write to His GP
- Consent Form
- Summary of Your Rights Under the Order
- Letter of Enquiry to GP (Intermittent Absence)
- Letter of Enquiry to GP (Long Term Absence)
- Invitation to a Consultation Meeting Following a GP Report
- Invitation to a Capability Hearing
- ***Warning – Only to be used where you are looking to dismiss your employee and after you have taken legal advice***
- Disciplinary Outcome Letter – Informal Warning
- Disciplinary Outcome Letter – Written Warning
- Outcome of Capability Hearing
- Notice of Appeal Letter
- Outcome of Appeal Letter

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.2 BACK TO WORK INTERVIEW

#### BACK TO WORK INTERVIEW FORM

##### Part 1 – Self Certification Form

(to be completed by employee) covering 1st to 7th day of sickness (including weekends)

Name of Employee: \_\_\_\_\_

Department: \_\_\_\_\_

Date Last Worked: \_\_\_\_\_

Date you became unfit: \_\_\_\_\_

Date returned to work (state if sick over weekend): \_\_\_\_\_

Date you recovered (state if sick over weekend): \_\_\_\_\_

Reason for absence: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Did you visit a doctor:  YES  NO

Signature of Employee: \_\_\_\_\_

**Attach Medical Certificate (Fit Note) if sickness lasted over 7 days (including weekends)**

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.2 BACK TO WORK INTERVIEW (continued)

#### PART 2 – BACK TO WORK INTERVIEW

(to be completed by team leader – return form to *(name of team leader)*)

**Discuss reason for absence – Is it work related?**

---

---

---

**How often does this problem arise?**

---

---

---

**When was the employee last absent from work and for what reason?**

---

---

---

Consider possible disability issues?

YES

NO

Is any assistance required at work?

YES

NO

(If YES, please give details):

---

---

Refer to GP?

YES

NO

Refer to Occupational Health Nurse?

YES

NO

Signature: \_\_\_\_\_

Position: \_\_\_\_\_

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.3 LETTER TO EMPLOYEE REQUESTING CONSENT TO WRITE TO HIS GP

#### LETTER TO EMPLOYEE REQUESTING CONSENT TO WRITE TO HIS GP

Dear *(employee's name)*,

I write with reference to your continued absence through ill-health since *(date)*. As you have not yet returned to work I now need to ascertain if and when you are likely to do so.

I would like your written authority to approach your Consultant/GP to obtain a medical report on your condition. I will only be able to make a fully informed decision with regard to your future employment with this Company if I have a medical report and have discussed it with you.

You should know that you are not obliged to give your consent to such application being made to your doctor. However, if your consent is refused, a decision about your future employment will be taken on the basis of the information available.

*(Optional)* This decision could lead to dismissal.

Before you sign the attached consent form, you should be aware that you have certain statutory rights under Access to Personal Files and Medical Reports (NI) Order 1991. I have attached information regarding your statutory rights with this letter. In summary these rights are:

- (i) To be told in advance by you, the employer that you wish to request a medical report from the doctor concerned.
- (ii) To be asked for their consent to obtain the report and to be told that they have a right to withhold their consent.
- (iii) To see the report either before or after it has gone to you, the employer.
- (iv) To request that the doctor make amendments to the report where the individual believes that it is inaccurate or misleading or request that a written statement of their views be attached to the report should the doctor refuse to make such changes.

I would be grateful for a response from you within seven days. I enclose a stamped addressed envelope for you to use.

Yours sincerely,

*(Employer/Manager name)*

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.4 CONSENT FORM

#### CONSENT FORM

Name in full: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name and Address of your GP: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I have received a statement of my rights under Part III of the Access to Personal Files and Medical Reports (NI) Order 1991 and I hereby consent to:

\_\_\_\_\_ **(Employer/Manager)**

obtaining a report on my state of health and fitness for employment from the medical practitioner named above.

I do/do not\* **(delete as necessary)** require access to the report before it is sent to:

\_\_\_\_\_ **(Employer/Manager)**

Signed: \_\_\_\_\_ **(Employee)** Date: \_\_\_\_\_

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.5 SUMMARY OF YOUR RIGHTS UNDER THE ORDER

#### SUMMARY OF YOUR RIGHTS UNDER THE ORDER

(to be given to your employee)

**This document sets out the statutory rights under Access to Personal Files and Medical Reports (NI) Order 1991.**

- 1 A report cannot be obtained from your GP unless you consent in writing.
- 2 You may when giving your consent in writing ask to have access to the report before it is sent to your employer by your GP.
- 3 If you elect to have access to the report you must contact the GP with 21 days of the report being requested, to make arrangements for access. If you fail to do this you will not have a right to see the report before it is sent to the employer. However, you will still have the right to see the report on written request to your GP within 6 months after it is sent.
- 4 You should make contact with the GP in writing. You can either ask to see the report at the GP's surgery or ask to be sent a copy of it. If you ask for a copy the GP may charge a reasonable fee.
- 5 Even if you do not ask for access to the report at the time you give your consent to the report being obtained, you can request access (in writing at any time within 21 days after the report is requested by the employer. You must address your request to your GP.
- 6 If you exercise your right to access to the report before it is sent your employer, you have the following additional rights:
  - (a) You can request that the report be amended (but the GP is not obliged to agree to this request).
  - (b) You can require a statement of your views to be attached to the report (if your amendments are not agreed).
  - (c) You can withdraw consent to the report being sent. In the latter case the GP will simply inform the employer that your consent has been withdrawn.
- 7 You must exercise your rights under paragraph 6 in writing within 21 days of seeing the report. If you fail to do so, the GP will assume you do not object to the report being sent to the employer.

**NOTE: The GP is not obliged to show you any parts of the report which he/she considers might cause serious harm to your physical or mental health or that of others, or which would reveal information about a third party, or the identity of a third party who has supplied information to your GP about your health, unless the third party agrees. The GP will inform you if any of these restrictions applies.**

You can decide to give your consent for a medical report to be supplied to your employer. Please complete the attached consent form if you give your consent, it also asks whether you wish to see the report – this section of the form must be completed.

Source: Labour Relations Agency website  
[https://www.lra.org.uk/images/publications/microsoft\\_word\\_-\\_consent\\_-\\_long\\_term\\_ill\\_health-2.pdf](https://www.lra.org.uk/images/publications/microsoft_word_-_consent_-_long_term_ill_health-2.pdf)

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.6 LETTER OF ENQUIRY TO GP (INTERMITTENT ABSENCE)

#### LETTER OF ENQUIRY TO GP (INTERMITTENT ABSENCE) PRIVATE & CONFIDENTIAL

Dear **(GP name)**  
Re: **(letter subject)**  
Name: **(employee name)**  
Address: **(employee address)**

To help us to consider the future employment of **(employee name)**, and to plan the work in the department, it would be helpful to have a report on your patient, who is our employee.

We have included his/her signed consent form and we undertake to you that all his/her rights under the Access to Personal Files and Medical Reports (NI) Order 1991 have been explained in a leaflet which we sent to him/her with the consent form. You will see that he/she has indicated that he/she wishes to have a copy of your report before/after\* **(delete as applicable)** you have sent a copy to us.

His/her work as a **(job title)** has the following major features:

- Management responsibility for: **(insert)**
- Seated/standing/mobile
- Light/medium/heavy effort required
- Day/shift/night work
- Clerical/secretarial duties
- HGV/medium/private driver
- Other: **(insert)**

The sickness absence record for the past year is summarised as:

Total days: **(number of days)**  
This month: **(number of days this month)**  
Previous months: **(days/month, days/month etc)**

We include a copy of all the relevant self-certificates and medical statement.

Please will you report whether upon examination of the above-named employee you have been able to find any serious underlying medical condition which explains this pattern of absence.

I would be grateful for an early reply and enclose a stamped addressed envelope. Please attach your account (at the BMA recommended scale) to your report and we will be pleased to settle this with you.

Yours sincerely,

**(Employer/Manager name)**

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.7 LETTER OF ENQUIRY TO GP (LONG TERM ABSENCE)

#### LETTER OF ENQUIRY TO GP (LONG TERM ABSENCE) PRIVATE & CONFIDENTIAL

Dear **(GP name)**  
Re: **(letter subject)**  
Name: **(employee name)**  
Address: **(employee address)**

In order for us to plan the work in the department, administer Statutory Sick Pay and our own occupational sick pay and assess the likelihood of a return to work in the near future, and the recovery of our employee, it would be helpful to have a report on the above named employee who is a patient of yours.

We have included his/her signed consent form and we undertake to you that all his/her rights under the Access to Personal Files and Medical Reports (NI) Order 1991 have been explained in a leaflet which we sent to him/her with the consent form. You will see that he/she has indicated that he/she wishes to have a copy of your report before/after\* **(delete as applicable)** you have sent a copy to us.

His/her work as a **(job title)** has the following major features:

- Management responsibility for: **(insert)**
- Seated/standing/mobile
- Light/medium/heavy effort required
- Day/shift/night work
- Clerical/secretarial duties
- HGV/medium/private driver
- Other: **(insert)**

The sickness absence record for the past year is summarised as:

Total days: **(number of days)**  
This month: **(number of days this month)**  
Previous months: **(days/month, days/month etc)**

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.7 LETTER OF ENQUIRY TO GP (LONG TERM ABSENCE) (continued)

#### LETTER OF ENQUIRY TO GP (LONG TERM ABSENCE) (continued)

I have your patient's permission to enquire:

- 1 What is the likely date of return to work?
- 2 Will there be any disability at that date?
- 3 How long is it likely to last? Will it be temporary or permanent?
- 4 Is he/she likely to be able to render regular and efficient service in the future?
- 5 Is **(are)** there any specific recommendation(s) you wish to make which would help us to find him/her alternative employment if that is necessary and if there is an opportunity for redeployment **(e.g. no climbing up ladders, no driving, etc)?**
- 6 Do you recommend that your patient continues with any medication or treatment when he/she returns to work? If so, could you indicate whether this would affect his/her ability to undertake his/her duties or necessitate any time off work **(and if so, how much?)**.

I would be grateful for an early reply and enclose a stamped addressed envelope.  
Please would you contact me if your reply will be delayed for any reason.

Please attach your account for your report and we will be pleased to settle this with you according to the BMA recommended scale of fees.

Yours sincerely,

Signed: \_\_\_\_\_

Name (Block Capitals): \_\_\_\_\_

Role in Company: \_\_\_\_\_

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.8 INVITATION TO A CONSULTATION MEETING FOLLOWING A GP REPORT

#### INVITATION TO A CONSULTATION MEETING FOLLOWING A GP REPORT

Dear *(employee name)*,

Review of GP report dated *(date)*

I am writing to you to confirm that we have now received a response from your GP regarding your current absence.

Before any decision are made about your employment we would like to discuss the report with you and discuss whether the company can make any adjustments to assist your return.

The meeting will be held on *(day)* at *(time)* at our offices and will be chaired by *(name)*. If this is not possible we can arrange to attend your home address at a time convenient to you. Please let us know if you would like this to be arranged.

*(Optional)* You have the right to be accompanied at the meeting with a work colleague or trade union representative.

Yours sincerely,

*(Employer/Manager name)*

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.9 INVITATION TO A CAPABILITY HEARING

#### INVITATION TO A CAPABILITY HEARING

Dear *(employee name)*,

Re: Capability Hearing

Following our consultation meeting with you on *(date)* we have now had the opportunity to review your current absence. When we met with you on the *(date)*, you advised that you agree with the contents of the medical report dated *(date)*. You stated you have difficulties in undertaking *(job duties)*. You agreed that there are no/further adjustments that can be made to assist your return to work.

We have heard what you have to say and now have to consider your future employment with this company. Before making any decision, you are invited to attend a hearing which will be held at *(time)* on *(date)* at *(location)* when the matter will be discussed.

The hearing will be attended by *(name)* on behalf of the company.

We have to advise you that whilst we are prepared to listen to any further views you may have, the hearing may result in your dismissal.

You have the right to be accompanied by a trade union official or work colleague.

Yours sincerely,

*(Employer/Manager name)*

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.10 DISCIPLINARY OUTCOME LETTER – INFORMAL WARNING

#### **INFORMAL WARNING** To be placed in the employee's file

Employee's name: \_\_\_\_\_

Location/Department: \_\_\_\_\_

Date of oral warning: \_\_\_\_\_

Offence: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

An oral warning was given to the above named employee in respect of his/her Unacceptable absence record as set out in our Absence Control Procedure. Details of the Absence records are attached.

I saw him/her on an informal basis on **(date)** when I asked for any explanation of his/her absence record. We had a long session together when we discussed at length his/her absence record and the reasons for it. I told him/her that if he/she had any personal problems or difficulties he/she could tell me in confidence or go to see our Company nurse/doctor. I also referred him/her to Dr **(doctor's name)** on **(date)** and received a report **(attached)** which did not indicate any medical problem.

I have now advised him/her that unless his/her attendance record makes an immediate, significant and substantial improvement during the next two shifts and is sustained for the next three months, he/she will be given a first written warning.

I will review **(employee's name)'s** absence record on **(date)** and after each shift, for a period of three months. If the attendance record improves and is sustained over the next three months, this oral warning will lapse.

I have advised him/her that he/she should come to see me if he/she has any problems with which the Company can help.

Yours sincerely,

**(Employer/Manager name)**

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.11 DISCIPLINARY OUTCOME LETTER – WRITTEN WARNING

#### WRITTEN WARNING

Employee's name: \_\_\_\_\_

Location/Department: \_\_\_\_\_

Date of oral warning: \_\_\_\_\_

Offence: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Further to the disciplinary hearing which took place on **(date)** I confirm that you have been given a first written warning for failing to achieve/maintain a satisfactory attendance record. Over the past **(weeks/months)** your absence record has been **(state number of days/spells)**.

I have discussed your record with you on two previous occasions and have tried to find out why your record is unacceptable. You have not been able to produce any explanation which satisfies me and regretfully, I have had to issue you with a first written warning.

In accordance with the disciplinary procedure/absence control procedure, there is a required improvement in your attendance. If we are satisfied that your attendance has improved in the next 6 months, this warning will lapse. However, should your attendance not improve or be sustained over the next six months, or should you commit any further disciplinary offence, then further disciplinary may be taken.

I trust that you will be able to attend work on a regular basis and achieve a 100% attendance record. If you have any problems which make it impossible for you to attend work, I would urge you to tell me immediately so that we can try to find a satisfactory solution. I have explained to you the difficulties we face when you fail to attend work and the effect that this has on the running of the Company. I trust that this warning will lead to the improvement required and that no further action will be necessary.

***\*If applicable {I have also reminded you of the facility for confidential counselling should you need this.}***

You have the right to appeal against this decision. If you wish to do so you should contact **(name)** in the next 5 working days.

Yours sincerely,

**(Employer/Manager name)**

# A GUIDE TO SICKNESS

## GUIDANCE LETTERS

### 3.12 OUTCOME OF CAPABILITY HEARING

#### OUTCOME OF CAPABILITY HEARING

***(NOTE: WE WOULD RECOMMEND SEEKING ADVICE ON THE CONTENTS OF THIS LETTER BEFORE SENDING TO THE EMPLOYEE)***

Dear *(employee name)*,

#### **Outcome of Capability Hearing**

On *(date)* we met with you to discuss the contents of a medical report received in relation to your long term absence. You were then invited to a Capability Hearing that was held on *(date)*.

Following the meeting it was decided that it is unlikely that you will be able to render efficient service in the foreseeable future and therefore you are dismissed with notice.

This letter is to confirm that decision. Your last day of service with the company will be *(date)*.

The reasons for your dismissal are *(insert reasons)*.

You have the right to appeal against this decision. If you wish to do so please inform *(name)* within *(insert number)* days, who will then arrange for an appeal meeting to be held.

Yours sincerely,

*(Employer/Manager name)*

# A GUIDE TO SICKNESS

## USEFUL LINKS

### 3.13 NOTICE OF APPEAL LETTER

#### NOTICE OF APPEAL LETTER

Dear *(employee name)*,

#### **Notice of Appeal**

We note you wish to appeal against the decision made in the meeting on *(date)* which was confirmed to you in writing on *(date)*.

You are invited to a meeting to discuss the appeal. This will take place at *(time)* on *(date)* at *(location)*.

*(Name)* will attend on behalf of the Company.

You are entitled to be accompanied by a work colleague or a trade union representative.

Please note that the decision made at this hearing will be final and there will be no further right of appeal. *(Delete if your company procedure allows for further appeals.)*

Yours sincerely,

*(Employer/Manager name)*

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 3.14 OUTCOME OF APPEAL LETTER

#### OUTCOME OF APPEAL LETTER

***(NOTE: WE WOULD RECOMMEND SEEKING ADVICE ON THE CONTENTS OF THIS LETTER BEFORE SENDING TO THE EMPLOYEE)***

Dear *(employee name)*,

#### **Outcome of Appeal**

You appealed against the decision as a result of the Capability Hearing held on *(date)*.

The appeal hearing was held on the *(date)*.

I am now writing to confirm the decision of *(name)* who conducted the Appeal Meeting, namely that the decision to *(insert decision)* stands/will be revoked.  
***(Explain reasons for decision)***

Having now exercised your right of appeal, I must remind you that this decision is final and that no further right of appeal is available.

Yours sincerely,

***(Employer/Manager name)***

# A GUIDE TO SICKNESS

## SICKNESS ABSENTEEISM

### 4.1 USEFUL LINKS

#### **LRA**

See guidance on managing absence in the workplace.

<https://www.lra.org.uk/publications/agency-publications/advice-and-guidance-on-employment-matters/managing-absence>

#### **EQUALITY NI**

See guidance on managing employees in the workplace.

<http://www.equalityni.org/Employers-Service-Providers>

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