

MANAGING ABSENCE POLICY

November 2015

A. INTRODUCTION

1. Why have a policy?

Organisations will always have some degree of staff absence caused by illness and other personal reasons. However, there comes a point at which the level of absence is not acceptable because it is detrimental to the provision of a good service to users. This policy is intended to enable a fair and reasonable approach on the part of RCLC, setting out principles and procedure that are clear to all staff, managers and trustees. It is complementary to and expands upon those sections dealing with leave entitlement in RCLC's Terms & Conditions of Service.

2. Principles underpinning the policy

This policy applies to all permanent staff and to temporary and fixed-term staff working for six months or more.

RCLC employees have various rights to absence from work which are either statutory or contractual e.g. annual leave, time off for emergencies, maternity leave, etc. These rights must be exercised properly and in accordance with RCLC procedures.

Employees are entitled to take reasonable unpaid time off to deal with emergencies relating to dependents (Employment Rights Act 1996). This will be at the discretion of the Manager.

High absence levels will be taken into consideration when a manager decides whether a new member of staff should be confirmed in their post.

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, for example, where an employee:

- has reported sick and been given sick leave when they were not sick
- 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 reporting and recording procedures.

3. Confidential Information

In dealing with cases under this policy it is the Line Manager's responsibility to ensure that sensitive medical and personal information is kept confidential. If the Line Manager becomes aware of sensitive medical information, then he or she must make the employee aware that they know. The Line Manager should only pass on sensitive medical information if it is deemed absolutely necessary to do so and can

be justified on a “need to know” basis. Wherever possible, the Line Manager will discuss this matter with the employee to whom the information refers and gain their express (i.e. written) permission prior to disclosure.

B WHO IS RESPONSIBLE FOR WHAT LEVEL OF ACTION?

Responsibilities

Board of Trustees:

Maintaining, amending and implementing this policy. Monitoring and managing the absence of the Manager. Consulting with the Manager where appropriate on issues relating to staff absence.

Centre Manager:

Ensuring that all staff follow reporting and record keeping procedures. Dealing with issues of long-term sickness or persistent short-term absence appropriately.

Line managers:

Monitoring absence from work for staff they manage and assessing whether action needs to be taken with regard to sickness or absence. Before taking action they should discuss it in confidence with RCLC’s Manager

All staff (and volunteers):

Adhering to the reporting procedures outlined in section C of this document

C REPORTING AND RECORD KEEPING

RCLC employees are required to notify their Line Manager of the dates of any absence from work, seeking authorisation where appropriate and using the following guidelines:

- Wherever possible, authorisation should be sought and notification given in writing and well in advance.
- When this is not possible, notification should be given (by phone usually) by 10:00 am on the first day of absence, unless there are exceptional circumstances which prevent this from happening.
- Annual leave is requested in advance using the appropriate form.

Sickness absence

In a period of absence from work due to sickness, employees only need a fit note from a doctor after 7 days off work sick. If they are ill just before or during their holiday, they can take it as sick leave instead, if they choose to do so..

Self-certification

RCLC will ask employees to fill in a form when they return to work to confirm they’ ve been off sick for up to 7 days. This is called ‘ self-certification’ .

Fit notes

Employees must give their employer a doctor’ s ‘ fit note’ (previously called a ‘ sick note’) if they’ re off sick for more than 7 days in a row (including non-

working days). Hospital doctors or GPs provide fit notes. They can charge a fee if a fit note is asked for before the 7th day. The fit note will say the employee is either 'not fit for work' or "may be fit for work". If it says the employee 'may be fit for work', RCLC will discuss any changes that might help the employee return to work (eg different hours or tasks). The employee must be treated as 'not fit for work' if there's no agreement on these changes.

RCLC will take a copy of the fit note; the employee should keep the original.

For all absences from work (other than annual leave or maternity leave) which are longer than half a day all staff must complete an RCLC Absence From Work Form. This must be done on the day of their return to work and given to their line manager.

D LONG TERM SICKNESS ABSENCE (4 weeks +)

1. Introduction

The overriding duty of RCLC trustees is to provide a service of benefit to the public in accordance with its charitable objectives. In the case of the long-term sickness of a member of staff a judgement may be required as to whether incapability on the part of the employee is undermining the ability of the trustees to fulfil this duty.

In this context it needs to be understood that under current law employers can fairly dismiss an employee because of long-term sickness on the grounds of capability. Ultimately determining whether an employee is fit to work is a management decision not a medical decision. However, medical advice will clearly be relevant to determining whether an employee should remain employed.

Employees who are off work sick for more than 4 weeks may be considered long-term sick. A long-term sick employee is still entitled to annual leave.

As a last resort, RCLC may dismiss an employee who is long-term sick, but before they can do this RCLC must:

- consider if an employee can return to work - eg working flexibly or part-time, doing different or less stressful work (with training if necessary)
- consult with employees about when they could return to work and if their health will improve.

An employee can take her case to an employment tribunal if she thinks she has been unfairly dismissed.

2. Procedures for Managing Long Term Sickness Absence

Where an employee is absent from work for a period, s/he is obliged to remain in regular contact with the Line Manager. The Line Manager should ensure that they are fully apprised of the employee's situation, ascertain whether the individual requires any additional support and talk to the individual about a return to work plan if appropriate. The Line Manager may have to consider referring the employee to an

occupational therapist or the new Fit for Work service (see Annexe – Medical Evidence).

For a prolonged period of absence, it will be necessary to obtain medical evidence to obtain a prognosis and to determine whether the employee is likely to be able to return to work in the near future. The fit note is the beginning of this process. On the basis of the medical evidence the Line Manager should consider whether alternative work is available and/or suitable. If, from the medical evidence, a return to work is unlikely and no suitable alternative work can be identified, dismissal may need to be contemplated, particularly where the employee's job can no longer be kept open.

Returning to work and disability

RCLC should make changes to an employee's working conditions if she becomes disabled because of her sickness. These changes are known as 'reasonable adjustments' and could include working shorter hours or adapting equipment employees use at work.

Just before and/or on return to work, a meeting will take place between the manager and the employee, the purpose of which is to identify any support needs the employee has, and how to address them, including for example a phased return to work.

Sick leave and holiday

Statutory holiday entitlement is built up (accrued) while an employee is off work sick (no matter how long she is off work). Any statutory holiday entitlement that isn't used because of illness can be carried over into the next leave year. If an employee is ill just before or during their holiday, she can take it as sick leave instead.

If the manager agrees, employees can choose to take paid holiday while on sick leave (for example, because she doesn't qualify for sick pay). Any rules relating to sick leave will still apply.

Pay

When an employee changes her holiday to sick leave she is paid Statutory Sick Pay which will count towards the amount of holiday pay she has received. The exceptions to this rule are:

- She doesn't qualify for Statutory Sick Pay
- She was off work sick and being paid 'occupational sick pay'.

3. Considerations relating to possible dismissal

Should the Line Manager feel that dismissal may be an appropriate measure in the circumstances, she should:

- discuss the situation with RCLC's Manager who in turn will discuss the situation with the Chair. Both should be kept informed of developments.
- Ask the Manager to seek legal advice

- Inform the employee of the concerns in writing and that her employment is at risk. The employee should be invited to attend a meeting to discuss the potential dismissal, giving the employee an opportunity to state her case. A work colleague or companion may accompany the employee.
- After the meeting, a decision should be taken whether to dismiss. The following should be taken into account when reaching a conclusion:
 - the employee's past record;
 - the length of possible absence;
 - the current health situation or possibilities of return;
 - whether the need created by the absence can be met by other staff,
 - the employment of temporaries, etc.;
 - the impact of continued absence on service delivery.

Records shall be kept of the meeting with the employee and the factors considered by the Line Manager when taking the decision to dismiss.

When the Line Manager believes that it is necessary for RCLC to dismiss the employee, approval to proceed will be given by the Chair of RCLC, the Manager and one other Trustee acting by majority vote if a consensus is not possible.

Where dismissal action is taken, the employee should be given a period of notice to which he or she is entitled and informed of the right of appeal. For the Appeals procedure, please see section F.

E PERSISTENT SHORT TERM ABSENCE

1. Definition

Short-term absence may either be for reasons of sickness, e.g. short uncertificated periods of one or two days occurring frequently, or they may be days taken off for other personal reasons which are not notified in advance or given permission for. It is important to identify the cause of the absence because this will determine the action that the employer may reasonably take. To dismiss someone who is genuinely ill on grounds of misconduct would be held to be unreasonable.

2. Absence for sickness

There may be people who have persistent health problems, linked or unlinked, which provoke frequent periods of absence. Where these periods of absence are linked then the employee should be encouraged at an early stage to seek proper medical advice. If the employee will not take medical advice, or if, despite taking advice, the periods of absenteeism continue, then the employee may need to be counselled about the effect that these levels of absence are having on her continued employment. If ultimately dismissal is inevitable, the grounds are lack of capability rather than misconduct.

Persistent absence should be dealt with promptly, fairly and consistently.

3. Procedure

Before taking any steps with regard to the employee, the Line Manager should brief the Manager of RCLC, who should then discuss the situation with the Board and/or Chair of Trustees.

The Line Manager or the Manager of RCLC should then seek legal advice.

If the consensus is to commence the procedure the employee should be informed of this fact and the stages below should be followed. The Chair and the Manager of RCLC should be kept informed of the situation as it develops.

Records shall be kept of all meetings with the employee. Each employee's individual circumstances will be taken into consideration before any decisions are made

In cases where the reasons for absence are sensitive and may be difficult to discuss with the line manager (for example if the Line Manager is of a different gender to the employee and the issue is sexual health), the employee will be offered the opportunity to discuss them with an RCLC trustee who will report to the Manager. The Manager, however, will continue to be ultimately responsible for implementation of the procedure.

First meeting: discuss the reasons for the absence and the frequency with which the employee is absent. Identify whether the absence could be related to a condition which could be considered a disability. Try to identify any help RCLC could provide to overcome the health problems suffered by the employee. Explain that though the organisation is sympathetic to cases of genuine illness, it cannot tolerate high levels of absence. Underline the need for good attendance. Tell the employee that a note of the conversation will be put on his/her file. The employee shall be given a time limit to improve the attendance records if appropriate.

NB. A colleague or companion may accompany the employee to meetings at all stages. The companion can ask questions, advise the employee and sum up the employee's case. However they may not answer questions addressed to the employee.

Second meeting: if the problems persist, see the employee again and ask the same questions. Establish whether or not he/she has sought medical help for his/her problems. Identify any positive steps he/she has taken and whether or not there is any further help RCLC can provide. Ask for permission to approach his/her doctor for a further diagnosis or, if he/she has not consulted the doctor, ask him/her to be seen by a doctor of RCLC's choosing. Make it clear that this is a formal meeting and that the employee will receive a written note of it afterwards and that note will appear on his/her personal file.

Third meeting: if there is still no improvement, see the employee again and after explaining all the issues once more, taking into account the findings of the medical report, indicate that RCLC is unable to continue to accept the level of absence. Write a final formal letter setting out the facts and the action that RCLC will take, i.e. dismissal, if the situation is not resolved within a reasonable timescale.

Final Meeting: if the absence continues, a letter should be sent to the employee setting out the concerns, referring them to the previous meetings and informing them that their employment is at risk. The employee will be asked to attend a final meeting and given the opportunity to state their case.

Dismissal: After the meeting, when the Line Manager believes that it is necessary for RCLC to dismiss the employee, approval to proceed will be given by the Chair of RCLC, the Manager and one other Trustee acting by majority vote if a consensus is not possible.

Where dismissal action is taken, the employee should be given a period of notice to which he or she is entitled and informed of the right of appeal. For the Appeals procedure, please see section F.

F APPEALS

Appeals against dismissal on grounds of incapability relating to either Long Term Sickness Absence or Persistent Short Term Absence will be heard by a meeting of 2 trustees (any trustees involved in the original decision to dismiss shall not be involved in this procedure).

An appeal must be lodged within five working days of receipt of the dismissal notice by the employee. The employee has the right to be accompanied by a union representative or other adviser, and the appeal hearing will be held within 15 working days. The decision of the committee will be communicated within 24 hours of its being made and will be final.

In approving this policy RCLC's Board of Trustees is giving delegated authority to the Chair, Manager and appointed trustee to make a final decision and to hear the appeal.

Annexe: Medical Evidence

Where an employee is absent from work or is unable to perform their duties owing to ill-health, RCLC may require an employee to:

- Provide medical evidence in the form of a report from an employee's GP.
- be examined by an independent doctor or an occupational health physician appointed by RCLC
- attend a Fit for Work meeting
- Expenses incurred in connection with the provision of medical reports will be met by the organisation.

RCLC will consult with the employee when considering which course of action to take.

The employee must be informed that s/he has:

- the right to withhold consent to the application being made
- rights concerning access to the report before (or after) it is supplied
- the right to withhold consent to the report being supplied to RCLC and the right to request amendments to the report.

Where an employee states that he or she wishes to have access to the report, RCLC must let the GP know this when making the application and at the same time let the employee know that the report has been requested.

The employee must contact the GP within 21 days of the date of application to make arrangements to see the report. If the employee considers the report to be incorrect or misleading, the employee may make a written request to the GP to make appropriate amendments. If the GP refuses, the employee has the right to ask the GP to attach a statement to the report reflecting the employee's view on any matters of disagreement.

Where an employee refuses to co-operate in providing medical evidence or to undergo an independent medical examination, the employee should be told in writing that a decision will be taken on the basis of the information available and that it could result in dismissal.

All proceedings under this policy will comply with the practice recommended or required by the Advisory, Conciliation and Arbitration Services (ACAS), the Access to Medical Reports Act 1988 and the Employment Rights Act 1996

Date Approved by Board

Nov 2015

Review Date

Nov 2017

Signed on behalf of the Board of Trustees

Date
