

A-Z Guide

ABSENTEEISM



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Overview

Absenteeism describes a number of situations where an employee either fails to report their absence from work; is absent without authorisation from work; or is absent with authorisation from work on a repeated or prolonged basis.

If left unmanaged, absenteeism may cause unbalanced workloads and resentment from other staff towards the employer. This is not a quick or simple issue to resolve.

How absenteeism is managed will depend on the reasons for its occurrence. Correctly identifying the problems is an important step towards managing absenteeism.

Where the underlying cause of absenteeism is illness, injury or incapacity, employers should seek professional and expert advice. Failure to consider all aspects of an employee's individual circumstances could mean a termination on these grounds is unjustified dismissal.

Introduction

Absenteeism may be used to describe:

- The employee's failure to present themselves for work
- An employee's unexplained absences from the workplace
- Repeated or prolonged absence from work, which is in excess of the leave and holidays provided for in the employment agreement

Employers often face situations when an employee's non-attendance in the workplace becomes an issue requiring management.

Absenteeism not only impacts on production levels, it also impacts on other staff. When an employee absents themselves from the workplace, someone else invariably has to take up the slack; sometimes things don't get completed and someone else becomes accountable. Colleagues can have legitimate feelings of resentment and, if the absenteeism is ongoing, sustained resentment towards the employer. Employers have an obligation to all their employees to manage the workplace in a fair and reasonable manner.

Absenteeism has financial implications beyond production levels and staff morale. While an employee is not at work, the benefits of their employment continue. This means that if an employee is unable to work for weeks because of sickness or injury, they continue to accrue annual holidays.

Absenteeism is not the abandonment of employment by an employee. Refer to the **A-Z Guide on Abandonment of Employment** for information on that topic.



Identifying the Problem

Identifying the extent of the problem is the recommended first step. Important information to analyse the extent of the problem may be found by:

- Assessing the employee's attendance record for patterns
- Reviewing the employee's personnel file for indications during the recruitment and selection processes of personal issues
- Revisiting documents from the employee's performance appraisals
- Talking with the employee

Once all the information about an employee's attendance has been obtained and reviewed, a clearer picture of the extent of their absenteeism should be obtained.

There are three aspects to identifying the problem of absenteeism. First is the employee's failure to be at work as contracted in their employment agreement. Second is the problem underlying the absence. Last is the detriment suffered by the workplace because of the employee's absenteeism.

Absenteeism can be for reasons both in and out of the employer's control. Obviously, most health issues and personal problems are largely the employee's to deal with privately, and while an employer can be supportive it cannot intervene unreasonably.

Employers should assess whether their workplace allows employees the flexibility to carry out personal responsibilities such as dropping off children to school or daycare, attend appointments, or manage the care of elderly relatives around their work commitments.

Sometimes when the absenteeism of one or more employees becomes apparent, investigation by the employer reveals that the problem is work-related. Absenteeism can develop as an inappropriate way of dealing with:

- Bullying or harassment
- Uncertainty and lack of knowledge about the job
- Personal conflicts
- Unresponsive management processes
- Boredom
- Heavy or unrelenting workloads
- Inflexible schedules
- Disengaged employees

Managing the Problem

Managing the problem will depend on what the problem is. Illness or incapacity require very different management than disobedience and disregard for the employer's policies and procedures. Employers should consider whether short-term absences can be covered by temporary workers, to maintain production levels and minimise the negative impact on other staff.

Illness, Injury and Incapacity

Absenteeism under this heading may either be due to an ongoing problem the employee is suffering, or to a number of illnesses that are largely unrelated, such as headaches, 24-hour viruses or flu, which often causes the employer to doubt the genuineness of these illnesses.

Ongoing Medical Issue

Problems that are ongoing may include:

- An accident resulting in earnings-related compensation from ACC (either work- or non-work-related injury), because they are incapacitated for a period of time
- Ongoing problems arising out of a prior injury
- Either undiagnosed or diagnosed chronic (ongoing) medical problems
- Complications after elective surgical procedures
- Illness because of an infection or disease process

How absenteeism should be managed in this situation may depend on:

- Whether the problem was known to the employer and/or employee before the employment relationship began
- Whether the problem has been caused by a work-related injury, or a non-work-related injury
- The length and quality of the employee's service
- Whether the employee's position is readily filled on a temporary basis
- The importance of the employee's position to the workplace
- The length of the employee's absences
- Whether the employee's absences or health issues can be reasonably accommodated
- Whether the employee is capable of alternative duties or light duties
- Whether the employee can be redeployed or relocated

When an employee is unable to be at work or fulfil their normal duties for a prolonged period of time, you may find that at some stage the absence can no longer be accommodated.

Managing ongoing medical issues

The first step in dealing with absenteeism caused by ongoing medical issues is to begin a dialogue with your employee about the reason for their absence and the prognosis. You will want the employee to provide you with some of the information they have received from the medical specialists involved in their care, to assist your decision making. You will want to ensure that your employee understands that while you may be sympathetic to their situation, you are not obliged to keep their position open indefinitely and will want to involve them in any decisions that may be made affecting their employment.

Once all the information that can be obtained is on hand, you will need to assess the information and your employment situation to decide how to proceed. Professional expert advice is strongly recommended if you are considering terminating the employee's employment on the grounds of medical incapacity.

More information about incapacity can be found in the **A-Z Guide on Incapacity**.

Important factors that will require consideration

- Termination for illness or incapacity is due to no fault of the employee.
- Where an employee is qualified for work of any description, section 21(1)(h) of the Human Rights Act 1993 prohibits an employer from terminating their employment or subjecting them to any detriment by reason of their disability, in circumstances in which other employees working that description would not have their employment terminated or receive detriment. Disability includes physical disability or impairment, physical illness and psychiatric illness.
- Factors beyond the effective control of the parties appear to bring about a situation, in which the employer may be entitled to protect and enhance its legitimate interests, to end the employment relationship: *Paykel v Morton* [1994] 1 ERNZ 875.
- The terms of the contract, including the provisions on sickness pay:
 - Weekly employment can be 'destroyed' (by illness or incapacity) more quickly than monthly employment, and that in turn more quickly than annual employment.
 - When the contract provides for sick pay, the contract cannot be frustrated as long as the employee returns to work, or appears likely to return to work, within the period that sick pay is still payable.
- How long the employment was likely to last in the absence of illness: The relationship is less likely to survive if the employment was inherently temporary in its nature, or for the duration of a particular job, than if long term or indefinite.
- The nature of the employment: Where the employee is one of many in the same category, the relationship is more likely to survive the period of incapacity, than if he occupies a key post which must be filled on a permanent basis.
- The nature of the illness or injury, how long it has already continued, and the prospects of recovery: The greater the degree of incapacity and the longer the period and likely length of continuation, the more likely it is that the relationship has been destroyed.
- The period of past employment: A long-standing relationship is harder to destroy than a short history: *Marshall v Harland & Wolff Ltd* [1972] ICR 101.
- Proper notice: The employer has a duty to disclose its views and intentions to an affected employee, and to afford them an opportunity to make a response. This may be to correct the employer's impression of their ability to resume (or practically resume) work: *Northern Hotel etc IUOW v Southern Pacific Hotel Corporation* [1990] 2NZILR 918.
- If in doubt about the medical position, the employer is obliged to ascertain the facts before dismissing the employee.
- Where an adverse medical report is obtained, the employee should be given the report for their perusal and considered reply. This is particularly where an employee disputes the soundness of the medical opinion, or where clearly other medical opinions could differ due to particular matters.
- The employer does not need to be generous in the time it allows an employee to recover, but it must not be unfair. What this generally means is the employer has to wait a reasonable time, to give the injured employee an opportunity to recover. What is reasonable depends on the facts of each case. After that, it has to inquire in a fair and open-minded way whether the employee has any realistic prospects of returning to work, within a further reasonable time: *Barry v Wilson Parking NZ (1992) Ltd* [1998] 1 ERNZ 545.

This list of factors is not exhaustive. Refer to the **A-Z Guide on Incapacity** for more information.

Intermittent absenteeism

Commonly an employee's absences are not due to a singular, ongoing medical problem. Instead, the absences may be due to a series of unrelated minor illnesses or for non-medical reasons. Sometimes such absences form a suspicious pattern such as when an employee only falls sick on Fridays.

Intermittent absenteeism that is rare or sporadic is usually accommodated by an employer and is seen as quite normal. However, there are instances when intermittent absenteeism becomes more regular, less sporadic and harder for the company to accommodate.

Whether the employee has a valid and reasonable explanation for their absence, will become clear at first questioning. Where the employee offers a genuine and reasonable explanation, the matter will usually end there. However, in some circumstances you will question the employee's integrity, because a similar incident has occurred before, or you unavoidably draw an inference out of the circumstances. Whatever the case may be intermittent absenteeism, that is becoming an identifiable problem for the company, needs to be addressed.

Even if the employee appears to have a genuine reason on each occasion, perhaps even a medical certificate, absenteeism of this kind may still require management. Ongoing absenteeism may compromise the performance of business units and generate dissatisfaction amongst other staff required to fill the gap the absence has made.

Managing Intermittent Absenteeism

The first and most important step is establishing the reasons behind the employee's absence. This is for not just the most recent instance of absenteeism but the overall pattern. The employee should be shown evidence to outline the number of days that they have been absent, and they should be asked if there is any underlying cause.

It is important that employers are careful initiating any processes. Caution is strongly advised because employees should not be punished for being sick. The employer should carefully consider the individual circumstances before beginning such a process, taking into account the employee's past behaviours, work record, length of service, and the organisational culture.

The reasons provided, if any, will determine the process to follow going forward. These processes are outlined below, but the information is only intended to serve as a guide. The process in practice may vary depending on the individual circumstances.

Medical Intermittent Absenteeism

An employee's absenteeism due to intermittent medical problems, whether the medical issues are related or not, should be approached from an incapacity perspective. The main questions are of the present and future prognosis. Employers should ask for evidence from the medical professional that the employee has been seeing, as to how the medical issue will impact on the employee's employment going forward.

Once evidence has been obtained, it will become apparent whether the level of absenteeism will continue, reduce, or stop. If the evidence received indicates that the medical issue is likely to cause ongoing or indefinite intermittent absenteeism, the ultimate question for the employer is whether it can accommodate the absenteeism.

More information about incapacity can be found in the **A-Z Guide on Incapacity**.

Non-medical Intermittent Absenteeism

Where there is no medical reason to explain an employee's intermittent absenteeism, the initial aim of communications to the employee should be to highlight the level of absenteeism, the resulting issues for the company, and what the company can do to assist the employee into reaching acceptable levels of attendance.

Where the underlying reason for the absenteeism is personal in nature, such as family issues, the employer may wish to offer support through workplace counselling or an Employee Assistance Programme.

The employee can be expected to have acceptable attendance levels. The employee should be advised that should similar patterns or levels of absenteeism continue, the company will initiate an absenteeism management programme. It should be outlined that the absenteeism management programme includes a progressive warning system with potential of a final outcome of termination if there is little or no improvement to the employee's attendance record.

However, this does not mean that the employee should be issued with a warning the next time they are absent from work. Each incidence of absenteeism should be discussed with the employee and recorded as should the reason the employee gave for the absence. It is upon review after a reasonable period whether there has been any improvement or whether a warning is appropriate.

A formal process should take place before a warning is issued. The purpose behind the warning should be to highlight the failure to meet contractual attendance obligations or failing to maintain an acceptable attendance record.

Unauthorised absence

Absenteeism under this heading may be attributable to:

- Emergencies
- Genuine mistakes about rosters or shifts
- Deliberate disobedience in face of an employer's refusal to grant leave
- Deliberate disobedience without reason

Leniency should be considered where the employee is absent due to an emergency or genuine mistake about rosters or shifts. Employers may wish to offer guidance or counselling, however it would be reasonable to expect that this type of absenteeism is rare.

Deliberate disobedience is a form of misconduct, possibly serious misconduct, and should be addressed from a disciplinary perspective.

More information on the process to follow can be found in the **A-Z Guide on Discipline**.

Failure to report

Failing to follow the company's policy on calling in sick is also misconduct. If an employee fails to call in or use the correct method of communication to notify you of their absence, you should address this with them upon their return to work.

Refer to the **A-Z Guide on Discipline** for a guide on how to manage unauthorised absences and the failure to notify.

Conclusion

When there is an issue of absenteeism with one of your employees, it is recommended you begin gathering information, that will assist you to identify what the problem is and how best to manage it.

Where the information reveals a complex situation that will require ongoing input, keeping notes on each stage of that process is important; notes kept on the employee's personnel file can be helpful if a dispute ever arises.

Never be reluctant to seek professional expert advice; no matter how straightforward some employment situations appear to be, it is often extremely valuable to have the benefit of an objective point of view, and professional assistance may prevent potentially expensive and distressing disputes.

Remember:

- Always call AdviceLine on 0800 300 362 to check you have the latest guide
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

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