

HR Guide

Long-term sickness

Initial Meeting/Medical Report

This document does not constitute a legal opinion or legal advice and is intended to be a guide only. To ensure you follow best practice (and, if applicable, do not compromise your insurance), you should contact the Alcumus HR Consultancy team before embarking on the process and at each subsequent stage.

Long-term sickness: Initial meeting/medical report

Your employee has been absent for more than 4 weeks. Should you be doing anything?

Check the detail

Your employee should:

- be contacting your company on a regular basis as per the rules in your employee handbook
- comply with your rules on providing medical certification after a period of self-certification.

Are they doing this? Do you know that they are actually still unfit for work? Failure to notify and/or certify correctly are potential misconduct issues along with the absence itself potentially being a capability issue.

If not, you should telephone or write to your employee to find out what the situation is and remind them of the Company's rules and their need to comply with them. If they are able to return to work as fit for their normal role, hold a "return to work meeting" with them on their return. If they will be off work for longer, write to them to arrange a sickness review meeting.

Hold a sickness review meeting

This meeting with your employee could be on-site, off-site or in a neutral location. The aim of the meeting is to establish:

- how they are;
- when they expect to return to work;
- what medication they are on (if applicable);
- what treatment they are undergoing;
- if their medical certification has said that they are fit for some work, to discuss this with them in detail.

Notes need to be taken at this meeting so, where possible, a colleague should accompany you to take notes.

Can the employee have a representative present?

There is no legal right to have a representative present, however, in some cases this might be seen as reasonable as the employee may need some support due to their illness. You may therefore consider allowing their spouse or partner to be present to support them.

What if the sickness absence is likely to continue and/or you require specific advice on accommodating a return to work?

Ask them to sign a "consent to access medical information form". This allows you to request a medical report from their GP or Consultant to find out more about their illness and decide what your next steps will be.

Sometimes, an employee may refuse to give this consent even though it may be a contractual requirement. You need to explain that decisions will then have to be taken without this important information which may not then be in their favour.

You have requested a medical report and this has now arrived

Invite the employee to attend another meeting. This is an important meeting as together you will be looking at what may and may not be possible to assist the employee's return to work in light of the information in this medical report. The employee should be given the right to be accompanied at this meeting by a colleague or a suitably qualified Trade Union official.

It is essential that every reasonable attempt be made to accommodate the employee's return to work (especially if there is a disability as defined under the Equality Act 2010). If you cannot accommodate these adjustments then there needs to be clear justification for this decision in order to defend any claims of disability discrimination.

If it is not possible for you to accommodate what the doctor has recommended, you will need to explain this to the employee, giving the reasons why. If there is no expectation that the employee will be able to return to their normal job then they need to be told at the end of this meeting that the Company will have to consider what has been discussed and consider what further action, if any, needs to be taken which may include potential dismissal on the grounds of ill health (capability).

If temporary adjustments recommended by the doctor can be accommodated, agree for how long this will be trialled. It is important that you make it clear that this will be on a temporary basis and that the ultimate aim is for the employee to return to their normal job unless, of

course, a permanent change is agreed due to their disability. If on a temporary trial basis then this situation should be regularly reviewed in meetings with notes taken.

Ultimately, if there are no reasonable adjustments that can be made for the employee or if this temporary arrangement does not work out for the Company, then the Company needs to consider dismissal on the grounds of ill health (capability).

If the situation works well and the employee wishes to remain working on these new terms then this could be confirmed on a permanent basis and a new contract issued.