

“ Plain speaking legal advice ”

**Its time to give your
sickness policy a check up**

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This publication is written as a general guide only. It is not intended to contain definitive legal advice, which should be sought as appropriate in relation to a particular matter.

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Short-term sickness absence is one of the hardest staff issues for an employer. A survey recently by the Chartered Institute of Personnel and Development found that employees took an average of eight days off sick last year, costing their employers £666 each.

Not enough organisations measure either the average absence they face or how much it costs them – perhaps if they did, they would realise the importance of having established procedures to deal with sick leave. This is more vital than ever in the current economic climate, because clients are reporting that absence is increasing, with low morale meaning employees feel unable to face coming into work some days.

The problem of the ‘sick note culture’ is widely recognised, and in fact, the Government is planning to replace sick notes filled in by doctors with electronic ‘fit’ notes, setting out the duties a worker can do, with the aim of getting them back into work earlier.

This sounds like a step forward - at least in theory - but it is unlikely to become a reality until 2010 at the earliest. In the meantime, you would be well advised to review your sickness absence policy to ensure that everyone’s rights and responsibilities are crystal clear.

A firm footing

Herrington & Carmichael has advised many employers on how to set up a proper policy, rigorously enforced by managers, which ensures that you are on solid ground to act in circumstances where you are concerned it is being abused. All too often, we find, both employees and their managers fail to follow existing procedures, such as notifying absence by a certain time and logging it on the system respectively. If the employer does not seem to be taking it seriously, then neither will the staff. Most importantly, failing to retain any proof of absence may jeopardise any future disciplinary proceedings against an employee who has been absent for no justifiable reason.

At the same time, it is important that the policy is handled in a tactful and considerate manner – employers need to balance the desire to achieve their objectives with the simple fact that employees fall ill and in most cases the absence will be genuine and unavoidable. You will want to be seen as a caring employer, but not a soft touch.

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Getting it right

A good policy will include:

- Proper procedures for people calling in sick, such as talking to their line manager, rather than leaving vague messages with a colleague;
- Documented return-to-work interviews;
- The right for the employer to obtain their own medical report, which can be useful if there are inconsistencies or vagueness in a GP's sick note;
- What happens if employees are sick during annual leave – there can be exceptional circumstances where leave is reinstated;
- Details of sick pay – we find that both employers and employees often believe that there is a right to sick pay above the statutory level. There is not and your policy should deal with the situation clearly, which should also improve compliance with the policy as a whole; and
- How frequent short-term absences will be handled, including how many absences will trigger this provision. This is particularly important, as the policy needs to have some bite.
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The next step

Herrington & Carmichael can audit your existing policy and procedure, and help you plan the sensitive task of consulting on and amending it, if need be.

You might also want to make use of the Business Health Check tool, a Government initiative launched in July that enables employers to assess the cost of ill-health to their business and the impact of wellness programmes on these costs. See www.workingforhealth.gov.uk

For help with your sickness absence policy please contact Ashley Holden at ashley.holden@herrington-carmichael.com or call 0118 977 4045

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