

**Public and Commercial Services Union**

# **Defence Sector group**

# **Attendance Management Toolkit**

**Nov 2015**

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# 1. Introduction

- 1.1** This toolkit is PCS guidance on the MoD's current attendance management policy, introduced on 2 February 2015.
- 1.2** The toolkit covers various aspects of the attendance management policy and will be useful for all members, with or without line management responsibility:
- Trigger points
  - Maintaining contact
  - Discounting (supporting) criteria
  - Written improvement warnings
  - Continuous sick absence reviews
  - Occupational health reports
  - Disability considerations
  - Shift workers
  - Sick pay at pensionable rates
  - Help and advice
- 1.3** This toolkit is not intended to be exhaustive; there will no doubt be situations that arise which will be particular to a TLB, business unit or workplace. If in doubt consult your local PCS rep.
- 1.4** The new attendance management policy was hurriedly implemented without concluding proper consultation with the trade unions and with little, if any, preparatory work done to raise awareness of the policy's new features amongst staff generally and managers in particular. Based on reps and members' experience of dealing with attendance management cases over the last six months, our union is now able to offer this robust toolkit which addresses the relevant issues associated with the new policy.
- 1.5** Our union has since urged the MoD to address this lack of awareness by way of presentations and workshops. We have had some success in forcing the department to undertake such activity but the picture across the TLB's, to date, remains patchy. Our union will continue to press for awareness raising events on attendance management as we are witnessing inconsistency of application of the new policy across the department. Our members should not be subject to the equivalent of a postcode lottery in this regard.

- 1.6** Despite sick absence being on a downward trend in the MoD and in the wider civil service, our employer has introduced an undoubtedly harsher attendance management policy.
- 1.7** The key features of the new policy are:
- 14 **calendar** days trigger point reduced to eight **working** days
  - Informal interview after four separate absences - even if eight day trigger point not reached or exceeded
  - A reduced list of 'criteria' for discounting purposes. (The new policy replaces 'discounting' with 'supporting' absences).
  - All day medical appointments recorded as special paid leave (policy on doctor and dentist appointments remains unchanged)
  - Part day sick absence after an hour's work will not count as sick absence
  - Informal review after 14 calendar days continuous absence
  - Formal review after 28 calendar days continuous absence
- 1.8** Our union believes that the department's wish to drive absence levels down through these changes will mask sick absence levels and illnesses as staff feel pressurised to be in work whilst ill.

## **2. Trigger Points**

- 2.1** The new trigger point for possible action following absence is reduced from the previous 14 calendar days to eight working days (in a rolling calendar year). The important point here is to ensure that, in this transitional first year of the new policy, that any previous week-end days accrued under the old policy (pre-2nd Feb 2015) are discounted under the new policy.
- For example (non-shift worker): If you have exceeded the eight day threshold and are on nine days absence then check if there was a week-end within that nine days. If there was then subtract the Saturday and Sunday to bring you down to seven days and back under the threshold.
- 2.2** If you are absent on four separate occasions (in a rolling calendar year) but not reached or exceeded the eight day trigger point then informal action can be taken by your line manager. This should simply be a discussion on reasons for your absence and if there is anything that can be done to help with your absence rate. There is no

formal action that can be taken at this stage and a PCS rep cannot accompany you, although there may be scope to accept you being accompanied if you have a disability and it is accepted as a reasonable adjustment. As this is a new feature the calendar year in question begins on the first day of the new policy's introduction – 2 February 2015.

- 2.3** Once the eight day trigger point is reached or exceeded then the line manager should hold a formal meeting where formal action is possible. Your line manager may decide to support the absence, (formerly discount), but if they do not then a written improvement warning may follow.
- 2.4** The MoD are required to give you five working days' notice of meetings involving first or final written warning discussions. You can be accompanied by a PCS rep at these meetings.
- 2.5** Line managers only formally review absences once the eight day trigger point is reached or exceeded.
- 2.6** Return to work discussions, held on return from every absence, should be separate from meetings regarding the exceeding of trigger points. There should be no back to back meetings.
- 2.7** The issuing of warnings falls under the managing poor attendance guidance (the old restoring efficiency procedure).

### **3. Maintaining contact**

- 3.1** Within the new policy there is an increased focus on maintaining contact with employees who are off sick on a longer term basis. Some of the key features of this new direction to note are:
  - Keeping in touch is fine but this must not translate in to undue pressure on the employee to return to work
  - The line manager can forward payslips etc. to the employee and keep them informed of changes in the workplace, and any changes to their terms and conditions, but these must be relevant and of interest to the employee.
  - Line managers must agree with the employee the level of, and how, contact, is to be maintained. The new policy recommends at least once a month. PCS believes once a week would be excessive.

- Line managers should bear in mind when arranging to keep in touch that medication can affect their employee's stamina, concentration, mood or driving.
- Line managers should ask the employee what they want colleagues to be told about their condition and ensure their wishes are respected.
- Line managers should rearrange the employees work to meet business needs whilst they are absent, to minimise the pressure when they return to work.
- Line managers should be mindful that recovery times for the same condition can vary significantly from person to person and from occasion to occasion.
- Line managers should ask the employee where they would like to meet. This may be in the office, at the individual's home or at a mutually agreed neutral location. If the employee states that they do not wish the line manager to come to their home this must be respected.
- A sensible approach to maintaining contact should be adopted, especially in stress, anxiety and mental health related cases. An insistence on unwarranted and excessive contact can set back employees and only serve to lengthen the absence.

## **4. Discounting criteria (supporting absences)**

- 4.1** The new 'discounting criteria' is a drastically slimmed down version of the old criteria. The new terminology is "supporting the absence".

The new list refers to only two conditions (pregnancy related and certain other factors aside) that can be considered when deciding whether to support the absence:

- A one-off operation or medical procedure e.g. appendectomy, or a one-off fracture or sprain
- Treatment for alcohol or substance abuse

- 4.2** There are serious omissions from the current list and which were admissible under the previous policy:

- No mention of one-off illnesses (measles, chicken pox, etc.)
- No mention of a 'succession of misfortunes' or accidents not likely to recur
- No mention of underlying health conditions which will improve over time
- No mention of stress and back problems qualifying conditions

The department assures our union that the intention behind this change was to increase the discretion of line managers to support absences, by removing lists that were never intended to cover all circumstances but merely act as examples of potential circumstances that could be 'discounted'. Regardless of intention, however, the shredding of the previous list has been understood by our members, including line managers, to be reducing the scope for supporting (discounting) an absence.

- 4.3** There is scope for line manager discretion in the new policy, however, and it can be found in the following paragraphs:

**In applying line manager discretion over whether or not to give a written improvement warning [after exceeding the trigger point], the line manager should consider:**

- **The employee's overall attendance record. The line manager may decide not to give a written improvement warning following a sickness absence which is uncharacteristic for the employee who has a positive work-focussed approach and whose sickness absence record is otherwise satisfactory.**
- **The likelihood of further sickness absence for the same reason. Occupational Health advice may help the line manager to determine whether the employee is likely to be able to meet the attendance standard expected of them in future**

**(How to: Decide whether to give a written improvement warning. Advice for managers, Page 3) V1.0 2 February 2015**

- 4.4** These two paragraphs are crucial as they allow the line manager to use a degree of discretion when faced with a member of staff who has a decent sick record but who has had an uncharacteristic absence, but one not covered under the drastically reduced criteria.
- 4.5** If you are subject to a meeting regarding exceeding the trigger point then ensure your line manager is aware of these paragraphs. If you are a line manager involved in a trigger point meeting, then consider these paragraphs and decide whether they give you discretion to support your member of staff's absence.
- 4.6** Reaching or exceeding the eight day trigger point does not automatically lead to managing poor attendance action and line managers must take in to account all circumstances.

- 4.7** There is no appeal against a decision not to support an absence but you can raise a grievance if you consider there to be procedural failures in the decision making process.

## **5. Written improvement warnings**

- 5.1** There are two types of written improvement warning:

- First written improvement warning
- Final written improvement warning

- 5.2** Meetings to discuss both types of written improvement warning require:

- Five days' notice
- Notes to be taken
- Copies provided to the employee of any correspondence relating to the employee's sickness absence which will be referred to during the meeting
- Informing the employee that a TU rep may accompany them
- Postponement of the meeting, once, if the PCS rep the employee has chosen cannot attend (or if a postponement is needed for any other reason). The re-arranged meeting must be held within five working days of the original scheduled date. If this is not possible the line manager should make a decision about the case taking into account all the available evidence,

- 5.3** There are some circumstances where the line manager may feel a written improvement warning should not be given:

- Where there is an operation or treatment which could help to improve attendance and prevent sickness absence the line manager can decide to wait and see what effect the treatment has.

- 5.4** In addition there are other considerations a line manager should take on board before issuing a written improvement warning. For example, for a reasonable period of sickness absence due to:

- Bone marrow or organ donation, or other treatment which benefits someone else
- Surgery, post-operative care or ongoing treatment related to gender reassignment

- The after-effects of IVF treatment.
- 5.5** A written improvement warning should not be given if the sickness absence is due to an injury sustained, or disease contracted, in the course of the employee's duties. The employee may be able to claim injury benefit and this would impact on the standard sick pay arrangements. Any subsequent sickness absence linked to the injury or disease should be highlighted and considered in relation to warnings.
- 5.6** A written improvement warning is followed by an improvement period, during which the employee's sick absence will be monitored. The improvement period lasts for three months but can be extended for up to six months, although only in exceptional cases.
- 5.7** The revised trigger point for the improvement period is as follows:
- 25% of the trigger point e.g. reaching or exceeding two days absence in three months.
  - Where an employee has an additional trigger point which has been allowed for disability or health reasons this should also be treated on a pro-rata basis during any warning period.
- 5.8** Deciding not to give a written improvement warning does not mean that a period of sickness absence is removed from the sickness absence record or permanently supported.
- 5.9** Written improvement warnings **cannot** be given whilst the employee is still off sick (continuous absence) as the warning is meant to be followed by an improvement period where the employee is monitored for further sick absence when back in the workplace. Obviously if they are not in the workplace this cannot be done.
- 5.10** If attendance is unsatisfactory during the improvement period (three months) then a final written warning is possible and ultimately dismissal or downgrading.
- 5.11** If returning to work on a fit for work plan (reduced hours for a set period to ease back in to work after a long absence) then no formal poor attendance meeting, or subsequent written improvement warning, may occur until after the end of the fit for work plan period.

## **6. Continuous sick absence reviews**

- 6.1** There are different types, and frequency, of review regarding continuous sick absence:
- Informal review for sick absence of 14 calendar days
  - Formal review for sick absence of 28 calendar days
  - Another formal review when the absence has lasted three months, and every quarter thereafter
- 6.2** The 14 day review meeting is informal and no formal action can be taken. The meeting can take place at a neutral location away from the office and the aim is to find out how the employee is feeling and to see if there is any support that can be offered to help a return to work. A PCS rep cannot accompany you at these meetings, although there may be scope to accept you being accompanied if you have a disability and it is accepted as a reasonable adjustment.
- 6.3** The 28 day review meeting is formal and action can be taken at this point. The same considerations at the 14 day informal review should be in play – how is the employee progressing, are there any measures that can be taken to help the return to work – but the question of whether the absence can continue to be tolerated is to be addressed. A PCS rep can accompany you at these meetings.
- 6.4** It is this question of the absence continuing to be tolerated - and this is the phrase in the policy - that is important to consider here. Bluntly put the new policy allows for a line management chain to declare the absence to be no longer tolerable, after 28 days, and to pass to a more senior decision manager to consider the next action, which could result in the employee leaving the department.
- 6.5** Our union expects that line managers, many of whom are PCS members, will adopt a humane, sensible approach in these instances and allow employees who are facing a prolonged sickness absence sufficient time to deal with it. Our union will resist all attempts, however, to unduly hasten the departure of our members from the department without due care and consideration shown.
- 6.6** If a face-to-face review meeting is not possible, either in the workplace or at another suitable venue, then the meeting can be conducted by telephone:
- ...it may not be possible to hold the meeting face to face or for the employee to come to their usual workplace. In this case the manager and employee should agree an appropriate alternative such as the employee's home or another location. If the employee is unable to hold the meeting face to face, the review can take place by telephone.**

### **(Attendance management – Advice, Q.14)**

- 6.7** At the formal interview stage no further dismissal or downgrading action should be considered if the employee is due to return to work in a reasonable timescale.
- 6.8** If the absence is deemed to be no longer tolerable, and there is no known return to work date, then ill-health retirement must be considered.
- 6.9** If the employee does not meet the requirement for ill-health retirement then downgrading or dismissal are possible next options, though the option of returning to work on permanent reduced hours/duties should also be explored. This may be one way for the employee to retain employment and the department to retain experienced staff. The details would depend on the individual circumstances.
- 6.10** Throughout the written improvement warning process and consideration of dismissal or downgrading for continuous absence there must be an effort on the department's part to facilitate reasonable adjustments, temporary or permanent, that may help the employee improve their absence rate and continue in employment.

## **7. Occupational health reports**

- 7.1** Occupational health reports are a tool that can aid the employee's return to work.
- 7.2** It involves the employee speaking (via telephone or in person) with an occupational health practitioner regarding their condition and how it relates to their workplace attendance.
- 7.3** Line managers cannot make an occupational health referral without the consent of the employee.
- 7.4** A good occupational health report should focus on what can be done to help the employee return to the workplace or help improve their future absence rate whilst currently in the workplace.
- 7.5** Occupational health reports can be, at times, frustratingly vague documents and it is in everyone's interests to make sure that any occupational health report is thorough and addresses the specifics of the individual's case.
- 7.6** No formal dismissal or downgrading action should be considered until an occupational health report has been completed.

- 7.7 If the occupational health referral occurs when the employee is in the workplace then sufficient time should be granted for in person appointments or privacy arranged for telephone appointments.
- 7.8 The aim of the occupational health report is to identify steps that can be taken, and adjustments made, that will help the employee to return to, or maintain their position, in the workplace.

## 8. Disability considerations

- 8.1 The MoD has an obligation under the Equality Act 2010 to provide reasonable adjustments for disabled personnel to enable them to achieve their full potential and to work as effectively as possible on an equal basis with their colleagues (see [disability toolkit](#).)
- 8.2 To this end there is an onus on the department to make reasonable adjustments, temporary or permanent, for disabled staff. Reasonable adjustments can take many forms, physical changes to the work environment as well as software and IT changes, and the link to attendance management is obvious. These reasonable changes have to be factored in not only when questions arise regarding a disabled person's attendance but they should be in place to anticipate possible attendance issues.
- 8.3 The MoD has introduced a **Reasonable Adjustments Service Team (RAST)** who can help staff with disabilities and other health issues to make workplace adjustments, including advising on non-physical adjustments. [RAST link](#)
- 8.4 Sickness absence related to an employee's disability can also be subject to separate trigger point considerations. In short, absences related to a disability can be identified as such and not count against the standard eight day criteria.
- 8.5 Previously agreed disability trigger points do not need to be reviewed in light of the new attendance management policy. The agreed disability trigger point level is linked to the disability in question and it does not follow that a decrease in the standard criteria necessitates a revision of the disability trigger point. Any revised look at a particular disability trigger point should be linked to changes in the disability itself, not merely as a result of changes in the general attendance management policy. If, for example, an employee has an agreed 10 day disability trigger point in addition to the old policy of 14 calendar days then, under the new eight working days threshold, the 10 days should, if all else is equal, remain.

- 8.6** Our union is mindful of the fact that in tightening attendance management policy disabled staff can be disproportionately disadvantaged and will strongly challenge instances where this occurs.

## **9. Shift workers**

- 9.1** Under the new policy there are trigger point calculations that relate to those that do not work every day of the normal working week. These include some part-time workers, those on compressed hours, part-year workers and some shift-workers.
- 9.2** The important point here is that some shift-working staff, such as those in the Ministry of Defence Guard Service (MGS) for example, are deemed to be working a normal working week and their trigger point is eight days, the same as normal working week employees. This is in line with the previous attendance management policy - where such staff were subject to the same trigger point, 14 days, as their normal working week colleagues.
- 9.3** Following a challenge by MGS management - who considered a six day trigger point suitable for MGS shift-workers - the eight day trigger point for MGS staff has recently been confirmed by the department. This was, however, only after a robust and lengthy intervention from our union.

## **10. Sick pay at pensionable rates**

- 10.1** For those on long term sick absence who are reduced to nil pay there is an option that may maintain some income.
- 10.2** Essentially your line management chain can support an application for sick pay at pensionable rates (SPPR) if there is a 'clear likelihood' that the employee will return to work.
- 10.3** The line manager checks with occupational health that a return to work is likely and SPPR can be approved for up to 12 months after the commencement of nil pay.
- 10.4** SPPR does not affect the employee's pension and is considered a payment of salary. The employee must have two years reckonable service to qualify. [SPPR link](#)

## 11. Help and advice

- 11.1** The department provides services that can be of use for those with sickness and attendance issues. If you have a personal or work-related problem that is affecting your performance and/or attendance then first speak with your line manager.
- 11.2** If your line manager cannot help, or it is inappropriate to involve them, then consider contacting the employee wellbeing service (EWS). You can contact the EWS, by calling the:
- **Employee wellbeing service (EWS) helpline 0800 345 7047 (STD) or 93345 7750 (Mil) Monday to Friday 08.30 - 16.30.** Arrangements can then be made to speak to a DBS civilian personnel wellbeing consultant at a convenient time between 07.00 and 19.00.
- 11.3** Line managers can also contact EWS for support in dealing with issues that may affect an employee's performance and/or attendance.
- 11.4** The EWS have wellbeing consultants who can help with a range of issues and can also signpost employees to appropriate specialists.
- 11.5** Some of what the employee wellbeing service do can also be provided by PCS and on occasion both PCS and EWS can work together and be of benefit to the member. Some examples of employee wellbeing service assistance are:
- Helping staff to apply for financial assistance (e.g. to the Civil Service Benevolent Fund (CSBF))
  - Providing post trauma support to employees and groups of employees in cases of work-related incidents (raised by the line manager)
  - Providing practical support to the families of staff who have died in service (e.g. help complete pension forms or arrange Social Services/Local Authority involvement).
- 11.6** **The DBS counselling service** is a telephone-based service, its aim being to prevent/reduce sick absence mainly attributable to work related stress. Individuals can self-refer and following an initial consultation will be assessed to see if they meet the criteria and are suitable for counselling sessions. Call **0800 345 7047 (STD) or 93345 7750 (Mil) or email [welfare@db.mod.uk](mailto:welfare@db.mod.uk)**
- 11.7** Our union hopes that this toolkit will help members navigate through the current unwieldy and dense attendance management policy. It is an attempt to pull together the important features of the new policy in a user friendly manner and to explain how the policy can impact on your daily working life. As always, if you are unsure then do not hesitate to contact a PCS rep for further assistance.