

Managing long-term sickness absence





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Long-term sickness absence has always been a major issue for businesses.

Over 25 million people in the UK live with a long-term health condition, and the number of people living with more than one condition is increasing – now standing at more than one in four.

This has big implications for businesses – with potential impacts on everything from productivity and profitability to recruitment, training, and retention.

Long-term sickness absence has now hit a record high, with over 2.8 million people absent from work. And where employees are not supported and leave their jobs, businesses lose valuable talent – leaving them to face the costs of recruitment and training, and even potential discrimination claims.

But long-term sickness absence doesn't have to be a headache. With the right policies and procedures in place, you can increase your chances of keeping your people in work and reducing the costs to your business.

So, where do you start? Our HR & Employment Law experts discuss the key areas you need to consider when managing long-term sickness absences in this guide.





Common reasons for long-term sickness absence

According to the CIPD, the most common problems reported by people with long-term health conditions of working age are:



Mental health conditions like anxiety or depression

(41%)



Musculoskeletal injuries like neck strains or repetitive strain injury, including back pain

(31%)



Other long-term health conditions like neurological or respiratory conditions, cancer

(32%)

Long-term conditions also include stress, cardiovascular, respiratory, neurological conditions and menopause. But sickness absences can also be caused from things such as a serious fracture or other injury, or an operation.

Whatever the length of the absence, you'll need to consider a wide range of factors - including what treatment the employee is having, how long the employee is likely to be off for, and what is happening with sick pay. When the absence is longer than expected, issues can spring up and employers need to make a careful and considered decision on their next steps – more on this later.

Did you know?



300,000 people in the UK with a long-term mental health condition lose their job each year, many who could've stayed in work with better support – a big loss of talent, skills, knowledge, and training investment.



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When handling each case of long-term sickness absence, there are some key considerations you should make to check you're meeting your legal obligations and following best-practice advice.

Is the absence short term or long term?

It may seem obvious, but a good first step would be to make sure you know what usually constitutes long-term sickness absence. Long-term absence is usually defined as lasting at least four weeks. It can be hard to manage as the longer someone is off sick, the harder it can be for them to return.

Put a policy in place

There's no legal requirement to have a specific long-term sickness absence policy in place, but it's often a good idea. In it, you should set out how sickness absence should be reported, details around any payments, and the process for handling long-term sickness absences.

Keep in touch with employees

You must keep in touch with absent employees but make sure this is done sensitively – it's good practice to train line managers on how to do this in the best way. This can also help you understand when they might return to work and how best you can help them do that.

Return-to-work process

You should have a formal return-to-work strategy in place for when people return to work after a long absence. Return-to-work interviews should be supportive and discuss ongoing adjustments where needed.

Case study

In a 2010 case, an employee suffered from MS and worked as a station assistant. He'd been off sick for two months and had not given any indication of a return date.

His employer tried to argue that because he'd not indicated when he'd be able to return, they'd had no obligation to consider any reasonable adjustments to help him in his role.

However, it was found that they should've been considering reasonable adjustments even whilst he was off sick with no proposed return date – including a phased return.

Not doing so was an act of disability discrimination and was also putting him under inappropriate pressure. Damages for these cases are unlimited.

Welfare meetings

It's best practice to hold periodic welfare meetings with an absent employee. This allows you to check on their current health, any improvement (or deterioration) from the last meeting, the current treatment plan (medication, operations, physiotherapy, ways to support them returning to work).



Consider any potential disability discrimination issues

You may need to make 'reasonable adjustments' to support employees with their disability under the Equality Act 2010 – which can include physical and mental health conditions. This is why it's a good idea for your absence policies to make clear how absences linked to someone's disability will be treated separately from sickness absences. Discrimination cases have no limit on damages, so it can be very expensive to get this wrong.

Do a risk assessment

When someone returns to work, doing a risk assessment can help you decide on any necessary changes to their work patterns or environment. Make sure you collaborate with the employee on any changes.

Fair and lawful dismissal

It's possible to dismiss an employee fairly and lawfully who's been, or will be, absent for a long period of time. We recommend you seek a medical report from a GP/consultant and/or an occupational health assessment at least once but potentially multiple times depending on the circumstances. You'll need to be able to clearly demonstrate that you acted reasonably in treating the employee's long-term ill health as a justifiable reason for dismissing them, including considering any possible adjustments or the likelihood and timescale of a future return, and also that you acted reasonably in the procedure you followed when dismissing them.

Important

If you're considering dismissal, always seek legal advice first.
Call us on **0345 844 1111** for support.

Pay

Statutory sick pay (SSP) is payable to eligible employees for a period of sick leave of up to 28 weeks. If two sick periods are linked (i.e., they happen within eight weeks of each other) then they can form part of the same sick leave period for SSP purposes.

Once an employee has run out of SSP, keeping in contact may feel like less of a priority on the basis they're unlikely to come back to work but aren't costing the business anything.

However, they remain an employee entitled to employment rights like the right to paid holidays, and you still have duties towards them. So, it's important to take action to identify how you can support them and if and when they're likely to return to work – and, if not, when might it be reasonable to terminate their employment.

Important

It's important to work with legal experts when deciding on which way to approach each individual case. Otherwise, you could risk costly tribunal claims. Our HR & Employment Law experts are here to help – call **0345 844 1111** to find out more.

Stay on the right side of the law with Citation

Long-term sickness absences can be tricky, and it's easy for slip-ups to occur. It's a complex area of Employment Law, but sadly it has the very real possibility of expensive tribunal claims if you get it wrong.

That's why we're here to help. From working alongside you to create long-term sickness absence policies, to guiding you through the return-to-work process, to ensuring you avoid discrimination – with our HR & Employment Law experts, you're in good hands.

Contact us today on **0345 844 1111** to find out more and start your Citation journey.

