

# Sickness Absence Supporting Documents

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## Manager Guide: Referral to Occupational Health

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Appendices B & C are not included this document.

They are available on the [Policies, Procedures & Schemes web page](#)

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# 1. People Matters - General Policy Principles

- 1.1 We value diversity and equality highly and have designed our procedures to be fair and inclusive. In putting our procedures into practice we expect all members of the University community to abide by the spirit and detail of the Equality Act 2010 and One Kingston, our policy and strategy for equality, diversity and inclusion.
- 1.2 The principles of natural justice, which include the duty to give a fair hearing, the duty to ensure that the matter is decided by someone who is impartial, and the duty to allow an appeal against a decision, will apply at all times to all parties.
- 1.3 Managers involved in hearings should ensure that any outcomes and/or recommendations arising are documented and implemented, including providing feedback to all employees involved without breaching confidentiality.
- 1.4 To ensure compliance with the procedure and current legislation, the HR Directorate will be informed of all cases and will provide advice and guidance during the stages. The HR Directorate will monitor formal cases to identify any patterns or trends. Reports will be made available to trade union representatives annually and on request.
- 1.5 Confidentiality should be respected by all parties at all times and cases should not be discussed openly.
- 1.6 Hearing managers must be accompanied by a member of the HR Directorate at any formal meeting.
- 1.7 Employees have a statutory right to be accompanied by a trade union representative or workplace colleague at any formal stage. (See Appendix A for details of the right to be accompanied).
- 1.8 If an employee's representative is unable to attend formal meetings through unforeseen circumstances, the nominated manager will check the availability of all parties and arrange one further date within 5 clear working days of the original meeting date.
- 1.9 If an employee's representative is unable to attend the rearranged formal meeting dates without good reason, a decision may be taken in the employee's absence.
- 1.10 To allow investigations to be completed as quickly as possible, all parties are expected to make themselves available for interview.
- 1.11 All outcome letters from formal hearings will be copied to the trade union representative or workplace colleague in attendance.
- 1.12 Where appropriate reasonable adjustments in the operation of this procedure will be made in accordance with the Equality Act 2010.
- 1.13 All employees can seek advice from the HR Directorate. Staff can also seek the support and advice of a recognised trade union and/or Occupational Health
- 1.14 Employees have the right to appeal at all formal stages, in accordance with the procedure.
- 1.15 Procedures will be reviewed periodically, and in any event formally reviewed after two years from the date of agreement with staff side unions.

## 2. Principles specific to Sickness Absence

- 2.1 The University uses a rolling 12-month period to calculate sick pay, and records of sickness absence are kept and monitored on a regular basis by HR.
- 2.2 Line managers are responsible for managing sickness absence for employees within their team. It is important that managers maintain contact with an employee during periods of sickness absence as this can normally assist an individual to return to work. As a general rule for long-term absence weekly contact would be reasonable, although contact arrangements should be mutually agreed by the line manager and the individual. In cases where the individual may have a grievance ongoing against the line manager then an alternative point of contact will be agreed.
- 2.3 Whilst the primary responsibility shall lie with the line manager, every effort will be made by all parties involved to support an individual's rehabilitation back to work following a period of sickness absence, with support and guidance from HR and Occupational Health.
- 2.4 The University provides an Occupational Health service for all employees via an outsourced provider called Health Management Limited (HML). Managers can refer individuals to seek medical support during their sickness absence and for their rehabilitation back to work. Individuals can also choose to be referred. Further information relating to making a referral can be provided by your HR Advisor.
- 2.5 All applications to obtain medical information will be made in accordance with the Access to Medical Reports Act (1988).
- 2.6 The University offers an Employee Assistance Programme that provides a wide range of services free of charge through Workplace Options. Details may be found on Staff Space.

# Appendix A - The right to be accompanied

**The following information has been produced to assist managers and employees when dealing with issues of accompaniment.**

- All employees have the right to be accompanied by a trade union representative of workplace colleague at any formal stages of a procedure and will be informed of this right.
- Employees can be accompanied by either a trade union representative or workplace colleague. The hearing manager/ HR will liaise with both the employee and trade union representative or workplace colleague to agree meeting details i.e. date, time, location.
- The trade union representative will normally be from a union recognised by the University.
- Generally an employee will not be represented by a solicitor or barrister, except in exceptional circumstances, relating to disciplinary matters, on a case by case basis, for example a disciplinary allegation against an individual concerning criminal matters. Employees must discuss such requests with HR in the first instance.
- If the accompanying person is involved in the formal proceedings against the employee (e.g. a witness) the hearing manager has the right to ask for an alternative person.
- If the employee attending a formal meeting is a local trade union official, the accompanying person can be a full-time official.
- Trade union representatives must be trained or certified by their union to act as an accompanying person.
- The employee must advise the hearing manager of the name of the accompanying person and of any subsequent changes.
- The accompanying person can address the hearing, confer with the employee and ask but not answer questions on behalf of the individual unless agreed by the hearing manager.
- The accompanying person can request an adjournment to discuss the matter in private with the individual.
- The accompanying person can also address the hearing to; outline or introduce the employee's case, sum up or respond on the employees behalf to any view expressed at the hearing but not answer questions directly asked of the individual.
- There is no obligation for a workplace colleague to accompany an individual, nor can a workplace colleague be compelled to attend any hearings in that capacity.

# Appendix D - The Equality Act 2010

1. If an employee's absence is attributable to a disability-related illness or the need to take sick leave because of disability, the provisions of the Equality Act 2010 must be complied with and advice must be sought from the HR Department.
2. An employee has a responsibility to inform the University if they have become disabled.
3. Under the Equality Act a person is defined as having a disability if they have:  

'A physical or mental condition which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities'.

*(The terms, 'substantial' and 'long term,' are defined as over 12 months).*
4. A manager, with advice and support from HR and Occupational Health must:
  - Distinguish between general sickness absence and disability-related absence. For example, an employee with severe asthma or epilepsy may be unable to attend work because of an attack or seizure and be absent from work for a reason relating to their disability. But the same person could also be absent from work due to an illness which has nothing to do with their disability
  - Ensure that there is no discrimination against a person with disabilities. It is unlawful to treat a disabled person less favourably than other employees for reasons related to disability
  - Ensure that 'reasonable adjustments' have been made for an employee with disabilities. Under the Equality Act employers have a duty to make 'reasonable adjustments' where any aspects of working arrangements, including premises, place an employee with disabilities at a substantial disadvantage, when compared to people who do not have their disability
  - The job itself may need to be adjusted in order that the employee may return to work following a period of sickness absence and/or it may be deemed a 'reasonable adjustment' to accept that the employee with a disability will need some level of absence from their work.
5. Reasonable adjustments that might need to be considered include:
  - Acquiring or modifying equipment
  - Giving, or arranging for, the employee to be given training
  - Modifying instructions or reference manuals
  - Modifying procedures for testing or assessment
  - Providing a reader or interpreter
  - Providing supervision
  - Re-allocating work
  - Transferring the employee to fill an existing vacancy
  - Altering the employee's working hours
  - Assigning the employee to a different place of work
  - Allowing the employee to be absent during working hours for rehabilitation, assessment or treatment; and
  - Making adjustments to premises.
6. The assessment of 'reasonableness' will be based on all the relevant circumstances including effectiveness, practicability, financial consequences and the size of the organisation.

## Appendix E - Early retirement on grounds of ill-health

1. Where the employee is identified as being permanently unfit to return to any role within the university by Occupational Health, there may be the possibility of taking early retirement on the grounds of ill-health (if they belong to a University recognised pensions scheme).
2. An employee does not have to exhaust the contractual Occupational Sick Pay entitlement to be referred for early retirement on grounds of ill-health.
3. The terms of ill-health retirement are dictated by the pension scheme rules.
4. If the employee is a member of the Teacher's Pension Scheme, the University's Occupational Health Provider will ask the employee to complete Part A of the Ill-health Application Form and Part A of the Ill-Health Medical form. Occupational Health will coordinate the completion of both forms and send them directly to the Teachers Pension Scheme; who will normally notify the employee of the decision. If the application has been approved, they will indicate at what level ill-health retirement is to be awarded, with or without enhancement. If an application is rejected, an individual can appeal against the decision directly to the Teacher's Pension Scheme.
5. If the employee is a member of the Sutton and Kingston Shared Pension Services (SKSPS) the University in conjunction with our Occupational Health provider may seek an independent medical second opinion. If both medical opinions are in agreement, Occupational Health will write to SKSPS who will then action the recommendation. Occupational Health must state which tier of ill-health retirement is to be awarded. If an application is rejected an employee can appeal through the Internal Dispute Resolution Procedure which is part of the Pension Scheme. Further information can be obtained from the Pensions Team ([pensions@kingston.ac.uk](mailto:pensions@kingston.ac.uk)).
6. If the application for ill-health retirement is approved, the manager is responsible for agreeing a leaving date with the employee and notifying the HR department.
7. If the application for ill-health retirement is rejected, advice should be sought from the HR Department on other options for the individual.
8. Early retirement on the grounds of ill-health does not constitute dismissal and does not carry a right of appeal within the University.

# Appendix F - Other Useful Information

## Recovery from Illness

You must take whatever reasonable steps you can to aid your recovery and to speed your return to work. If necessary seek advice and treatment from your doctor at the earliest opportunity. Although medical certificates will not be given for absences of a week or less, this should not stop you from seeking your doctor's help during the first few days of illness.

## Third Party Claims

If your absence is a result of an accident involving a third party (such as a car accident) notify your Supervisor/Head of School as there is no entitlement to sick pay. The University shall, however, advance to the member of staff a sum equal to the sick pay entitlement under this scheme subject to the member of staff undertaking to refund to the University the total amount of such an advance or the proportion thereof representing the amount of damages received.

## Absences other than Your Own Sickness

Sick pay provisions only apply when you are off work as a result of your own sickness and do not cover, for example, absences to care for members of your family who are sick.

If you cannot attend work for reasons other than your own sickness, such as for domestic or personal reasons, you should, if possible in advance, ask your Supervisor/Head of School whether you may take time off work. Should an unexpected problem or circumstance arise which stops you from attending work, you must notify your Supervisor/Head of School immediately and see him/her on your return.

## Absences for which Sick Pay may be Withheld

If your sickness absence is a result of, or is attributable to, (i) your own misconduct, (ii) active participation in sport as a profession (not as an amateur) or (iii) an injury whilst working in your own time and on your own account for private gain, or for another employer, you may not be entitled to sick pay from the University, other than SSP.

If you have any queries on sick pay arrangements, please contact your manager in the first instance.