

Disability Absence – Guidance for Managers and Staff

Version 1.0 – 26TH July 2013

This document was produced in consultation with:

Disability Related Absence Working Group

Disabled Staff Network

HRMT

University Unions

This document was approved through the following committees:

UNCC – 05/06/13

EDC- 12/06/13

VCE – 5/6/13

1. Introduction

As an inclusive employer the University of Portsmouth's aim is to promote equality of opportunity and equity in treatment for all staff and remove or make adjustments to policies which could disadvantage disabled employees.

It is recognised that some disabled employees may need time off for a reason relating to their disability. There have been varying practices across the University in facilitating and recording such absence and these guidance notes have been written in order to provide clarity to both managers and staff. The Equality Act 2010 requires employers to remove any disadvantage that disabled staff may face. The University considers the option for disability leave and disability sickness as a "reasonable adjustment" under the Equality Act.

Disability leave can be managed within the current managing sickness policy and procedures which already allow for a flexible approach by managers around specific leave requirements and workplace adjustments. The aim of this guidance is to highlight to managers and staff the options available in supporting staff around disability related absence and to support a consistent approach to its use across the University.

2. Who can request disability leave/sickness absence?

Any employee who considers themselves disabled under the Equality Act 2010 definition and who has declared their disability to the University can apply for this type of leave.

The University wishes to provide a supportive working environment where staff feel able and confident to declare their disability to the organisation. If staff require disability leave or take disability related sickness they should be advised that their HR records must indicate a declared disability and if it does not they should ensure that they update their disability status with HR/Occupational Health.

3. What is defined as a disability?

Under the Equality Act 2010, disability is defined as:

“A person has a disability if they have a mental or physical impairment that has a substantial and long-term adverse effect on the person’s ability to carry out normal day-to-day activities”

For the purposes of the Act:

“Substantial” – means neither minor or trivial

“Long-term” – means that the effect of the impairment has lasted or is likely to last for at least 12 months

“Normal day-to-day activities” – include everyday things like eating, washing, walking, and going shopping

Fuller details of these definitions is contained in the Office for Disability Issues Equality Act Guidance Section A-D

<http://odi.dwp.gov.uk/docs/wor/new/ea-guide.pdf>

4. What is disability leave?

Disability leave is intended to provide disabled staff with reasonable paid time off work for reasons, generally pre-planned, related to their impairment when they are unable to book some or all of this time outside of working hours. As far as reasonably practicable this leave should be planned in advance in discussion between the member of staff and line manager. Advice and guidance may be sought from the HRBP/Adviser and the Occupational Health Department.

Examples of what might be classed as disability leave:

- Hospital or doctor’s appointments in relation to a disability
- Assessment for medical aids
- Counselling/therapeutic treatment in relation to a disability
- Recovery time after a disability related treatment, such as blood transfusion or dialysis
- Physiotherapy

Examples of what might constitute longer periods of disability leave:

- A period of time off work where, based on Occupational Health advice, it is not appropriate to remain at work or be redeployed while reasonable adjustments are made
- Training with guide dog, hearing dog or assistance dog

Due to the nature of this type of leave it is not possible to give an exhaustive list of all circumstances here.

Disability leave is a “reasonable adjustment” and should be agreed for a specified reason. This should not be used to extend sick pay and should not be used for disability related Sickness Absence (see below).

5. What is disability related sickness absence?

Disability related sickness absence arises where a member of staff’s sickness absence is related to their disability.

Examples of what might constitute disability related sickness:

- A member of staff who is diagnosed with depression has a particularly difficult period during which they are unable to leave the house
- A member of staff who has epilepsy experiences a seizure and as a consequence requires a period of rest to enable their body to recover

Disability related sickness needs to be monitored and managed consistently and fairly, and staff should be aware that such absence will be taken into account when managing the sickness absence of a member of staff in line with the University’s Managing Sickness Absence Procedures.

6. What is a reasonable amount of time?

It is impossible to give hard and fast guidelines for the amount of leave a member of staff may need because each individual’s disability, personal management strategy and circumstances are different. It may not always be apparent if the person’s absence is related to their disability or not. This can especially be the case with people with mental health conditions. This will require a discussion around what is seen as “reasonable” for the individual and the organisation. Managers and staff should seek advice from Occupational Health and Human Resources if they need guidance about what might be seen as “reasonable”.

Staff with disabilities need to feel confident and supported when they approach managers. Staff should be fully consulted about any decision made or advice received. **What is vital is that both managers and staff adopt a positive, practical, flexible and pragmatic approach.**

Extended amounts of disability leave may also be an indication that current “reasonable adjustments” in the workplace require review. Managers are advised to seek advice from the Occupational Health Department regarding adjustments that may be made within the workplace to ensure consistency across the University. Such adjustments should be monitored and reviewed, supported by continuing discussion with the member of staff, and in particular at any return to work discussions.

7. Recording disability related leave

Disability Leave should be recorded by managers using the same method they use to record other types of special leave authorised by a manager. It is anticipated that at a future date requesting/recording of disability related leave will be incorporated within the leave request functionality of the HR system.

8. Recording disability related sickness

Disability related sickness absence should be recorded by managers using the same method they use to record other types of sickness .i.e. through the standard return to work procedure, highlighting that the absence was disability related. It is anticipated that at a future date recording of disability related sickness will be incorporated within the sickness recording functionality of the HR system.

<http://www.port.ac.uk/intranet/humanresources/conditionsofemployment/sicknessabsence/>

9. The right to complain

If a dispute arises around what is deemed as ‘reasonable’ amounts of disability related absence, procedural irregularity, or any other aspect of leave/sickness, every effort should be made to resolve the issue through informal discussion between the member of staff and their manager. Where it has not been possible to reach agreement, the member of staff can raise the issue at step 3 of the University’s Grievance Procedure.

As with other types of leave/sickness, any abuse of disability leave/sickness will be dealt with under the University's Disciplinary Procedures

10. Reviewing

Monitoring and reviewing the effectiveness of this guidance will take place through the following mechanisms:

- HR leave/sickness data
- University Staff survey
- Feedback from unions and staff disability forum
- Feedback from managers and staff through HR Business Partners

11. Advice and support

If you have any questions on how to interpret or implement this guidance please contact the Equality and Diversity Manager: 023 92845774

Other support/guidance can be found through:

Occupational Health Service

Please refer to the link below or contact reception: **Tel: 023 9284 3187**

www.port.ac.uk/occupationalhealthservice

Human Resources Department

Please look at the HR Department's website or contact the HR Business Partner/HR Adviser for your faculty or service.

Tel: 023 9284 3141

www.port.ac.uk/departments/services/humanresources/contactus/hrservicesstaff

Disabled Staff Network – disabilityforum@port.ac.uk

RightManagement (Employee Assistance Programme)

Staff information and advice: 0800 111 6387 (24 hour helpline)

Managers' information and advice: 0800 111 6387/6385 (24 hour helpline)

www.port.ac.uk/eaprightmanagement

Trade Unions

Please refer to the contact details below:

Unison: www.port.ac.uk/staffessentials/generalinformation/unison/

UCU: www.ucu.port.ac.uk

Equality & Diversity Team – equality@port.ac.uk

Equality and Human Rights Commission (EHRC) - <http://www.equalityhumanrights.com/advice-and-guidance/your-rights/disability/>

Equality Challenge Unit (ECU) - <http://www.ecu.ac.uk/subjects/disability>

Office for Disability Issues - <http://odi.dwp.gov.uk/>