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Circular 09/2010 : Management of Sick Leave

A Dhuine Uasail

1. I am directed by the Minister for Finance to refer to the effective management of sick leave in the Civil Service and to the existing sick leave absence limits for the promotion, acting-up or transfer of civil servants and the establishment of civil servants on probation. This circular provides a general framework of guidelinesⁱ; reflects recent research and practice developmentsⁱⁱ; consolidates existing arrangements and supersedes previous circularsⁱⁱⁱ and instructions covering these matters. It applies to all civil servants (including prison officers and temporary staff) and is effective from the date of this circular.

2. Officers from time to time may encounter challenges to their health and well-being. Line managers should be sensitive to the need for responding in a positive and supportive manner to the officer in question and in handling sick leave matters in the workplace should respect the dignity and confidentiality rights of staff. Management of sick leave is of mutual benefit to officers and to Departments^{iv}. It helps to provide a working environment that supports staff welfare, which maximises and motivates attendance and builds morale within the organisation. It is also aimed at reducing absence from work and should result in improved service delivery, reducing costs and relieving pressure on staff resources within the organisation.

3. Management of sick leave should be done in a fair and consistent manner, seeking to address the cause of the sick leave and ensure regular attendance of officers at work. It is the responsibility of line managers, with the support, specialist advice and guidance of Personnel Units, to be aware of patterns of absence, to be sensitive to trends and to take early preventative action where this is necessary. The commitment of managers to a consistent policy on sick leave has been found to be a critical factor in creating a culture of good attendance. Managers' responsibilities include:

- Being clear on the subject of attendance expectations;
- Ensuring an efficient and effective workplace culture;
- Assisting in the maintenance of a motivational atmosphere;
- Maintaining supportive contact with officers on sick leave and conducting reviews and meetings as appropriate and in accordance with this circular; and
- Identifying and addressing shortfalls as soon as they arise.

4. Officers are obliged to provide regular and effective service and have a responsibility for their own sick leave and in particular adherence to the sick leave regulations. They must also:

- Comply with all office instructions regarding health and safety;
- Be familiar with and comply with the sick leave regulations/policy;
- Maintain regular contact with the Department during periods of sick absence;
- Take all reasonable measures where possible to manage health and well-being with a view to returning to full health; and

- Co-operate fully with all rehabilitative measures to facilitate an early return to work.

5. Training in relation to this policy should be provided in induction courses. Departments should liaise with Training Officers to arrange additional training and dissemination of literature as needed.

Monitoring Patterns of Sick Leave

6. Every Department should ensure that they have reliable procedures in place to record promptly (through their HR IT system), monitor and analyse patterns of sick leave. Effective reporting formats (see Appendix IV) and procedures are an essential element of a successful sick leave management system. Reporting should occur on a regular basis to facilitate effective collection and analysis of data. At a minimum, it is recommended that:

- Sick leave pattern analysis/statistical reports should be provided to the Senior Management Team on a quarterly basis;
- Sick leave pattern analysis/statistical reports should be provided to Heads of Business Units^v on a quarterly basis;
- Sick leave pattern analysis/statistical reports should be provided to managers and individuals as appropriate; and
- Information on sick absence rates should be contained in the Department's Annual Output Statement.

7. It is recommended that Personnel Units review and evaluate sick leave rates at least once a year to pin point key features. Such reviews may include comparison with previous years' sick leave absence rates and costs which should inform management of trends and indicate whether or not existing policies and procedures are effective. Aside from the review and evaluation of statistical data, the annual review should include a review of the Department's referral practices to the Chief Medical Officer (CMO) and Employee Assistance/counselling services.

Sick Absence

8. Departments continue to have an employment relationship with officers on sick leave. The most important measures in facilitating a timely return to work include making early and supportive contact as appropriate with officers on sick leave, maintaining such supportive contact, referral to the CMO, conducting sick leave review and return to work meetings.

9. It is the responsibility of the line manager to liaise with the Personnel Unit, Employee Assistance Officer (EAO) or Disability Liaison Officer (DLO) in identifying progress towards recovery and assisting in reintegration into the workplace. This is a normal procedure and should not be construed as harassment. Officers should pro-actively contact either the Personnel Officer or their manager with updates on their recovery and should be actively encouraged to consider a gradual return to work as soon as they are fit to do so. Reviews of the situation should be undertaken every three months by Personnel Units.

10. An officer should contact his/her local manager/supervisor within one hour of starting time on the first day of sick absence. If the relevant supervisor is not available, the officer should contact that supervisor's manager or a member of the staff of the Personnel Unit. While it is generally expected that the officer concerned should report a sick absence,

it is nevertheless accepted that there may be occasions where s/he is unable to do so. In such cases, another person acting on the officer's behalf should contact the relevant supervisor on the first day of absence.

11. The reason for absence and an expected date of resumption of duty should be given. If the officer is not in a position to resume duty on the expected date, s/he should notify the relevant supervisor as soon as it becomes clear that s/he will not be in a position to do so. If sick absence lasts more than two working days a medical certificate^{vi} signed and stating the medical practitioner's Medical Council registration number, stating fitness for work or otherwise, must be submitted in accordance with sick leave regulations. While the nature of the illness does not have to be included in all circumstances, if it is not stated this may give rise to difficulties if seeking to have the absence discounted.

12. The production of a medical certificate does not in itself entitle the officer to sick leave, the grant of which is a matter for the Head of the Department. The decision whether, in respect of such absence, sick leave is to be granted and whether it is to be with or without pay is a matter for the Head of his/her Department. The privilege of uncertified sick leave may be modified or withdrawn in cases where absences are unduly frequent or the maximum of seven days is regularly approached or taken year after year.

13. The onus is on a manager to meet with the officer on his/her return to duty and ensure that the completed Resumption of Work Form (see Appendix I) is sent to Personnel Section.

Repeated Short-term Sick Leave

14. Repeated short-term absences may not in some cases primarily relate to medical issues; they can be attributed to a number of factors. In general problems encountered in this area may relate more to problems around attendance at work than to questions of health. Repeated short-term absences should be monitored by local management with the support of Personnel Unit. In general, a Sick Leave Review Meeting (see Appendix II) should be held in every case where an officer's absence rate or pattern is of concern, whether the absences^{vii} are certified or uncertified. Managers should take account of the prevailing circumstances and examine the officer's pattern of sick leave in determining when to conduct review meetings. Departments may consider the introduction of a follow-up meeting after every short-term sick leave absence if the rate of sick leave in their organisation is of concern.

15. Cases can be referred to the CMO, if the officer feels that his/her absences primarily relate to an underlying medical condition and management require clarification/advice on this. In such instances the CMO should be provided with details of the outcome of prior management meetings with the officer about his/her attendance pattern. Ordinarily, repeated short-term absence cases should only be referred to the CMO following a sick leave review meeting.

Sick Leave Abuse/Discipline

16. Failure to comply with the sick leave regulations should be regarded as serious misconduct and the Disciplinary Code may be invoked.

Long-term Sick Leave

17. Sick leave absence of more than four weeks duration^{viii} should be regarded as long-term. Persons on long-term sick leave should be referred at an early stage to the CMO who advises that the earlier an officer is referred, the better are his/her chances of returning to work. All cases, other than specific illnesses that the CMO has advised do not need to be

referred, should be referred by Personnel Section as soon as possible but no later than six weeks after the absence begins. The officer should be notified of the referral. In order to avoid unnecessary expense to officers, generally the CMO's Office should decide on whether a confidential doctor's report is required.

18. Departments are free to refer cases earlier, and this is particularly advisable where the absence is attributed to the working environment or arising from work. In such cases the CMO requires full background information and this will involve Personnel Section contacting local management.

19. Where a case is referred to the CMO's Office, the CMO will decide whether an appointment/confidential telephone consultation with the occupational health doctor or nurse is required, whether a confidential medical report from the treating doctor should be sought, or whether no further occupational health intervention is required due to a self-limiting medical condition.

20. Where an officer has an appointment to attend the CMO, and the officer has returned to work in the meantime, the CMO should be informed. The CMO can then decide whether an appointment is still required. If an officer refuses to attend and engage with the CMO, s/he should be aware that management may have to deal with their case as a management/disciplinary issue rather than as a health issue.

21. When an officer is certified to return to work following a period of absence, s/he does not need to be routinely cleared to return to work by the CMO. However, if the Personnel Officer has particular concerns or the CMO has previously indicated that the officer should be referred, then s/he should be referred to the CMO before a return to work is agreed.

22. Return to work needs to be carefully managed to ensure that the re-establishment of working practices and the recovery process are properly balanced. In managing sick leave, Departments should ensure that the necessary appropriate measures such as reviewing work plans, modified working hours or arrangements, are undertaken in order to assist the officer in reintegrating to the workplace. An officer should have a formal Return to Work Meeting on his/her return to work with the line manager. (see Appendix III)

Disability Liaison Officer

23. The role of the DLO is to advise on the provision of reasonable accommodation in the workplace for officers with disabilities who may require such accommodation. DLOs also assist and support staff with disabilities and their Line Managers by the provision of necessary information, appropriate contacts, guidance, suggestions and advice. Employees with disabilities, the Personnel Officer and Line Managers may consult with their Department's DLO.

Employee Assistance Service

24. Personnel Officers may recommend that officers on or after sick leave engage with the Employee Assistance Service and may facilitate access to professional services, where

appropriate. Alternatively, an officer is free to make direct contact with the Employee Assistance Service or may seek assistance from other professional services if s/he prefers and this should be facilitated where possible.

Performance Management and Development System

25. Where attendance patterns impact on an individual's performance this should form part of the discussion within the Performance Management and Development System. (PMDS).

Sick leave following any extended period of Statutory, Special or Other Leave

26. The CMO has advised that sick leave following any extended period of statutory, special or other leave should be referred immediately^{ix}. Such sick leave should be allowed in line with normal sick leave regulations and in particular where the Head of the Department is fully satisfied that the officer intends to return to his/her Civil Service position when fit to do so.

Probation

27. During the probationary period, officers should have the sick leave policy explained to them and should be told of the standards expected in terms of attendance, performance and behaviour/conduct both in general and in relation to promotion or establishment as appropriate. They should be made fully aware that an officer's sick leave record will be taken into account when determining promotion or establishment. They should be informed of the possible consequences of not attaining these standards, such as termination of contract if on probation following recruitment, or being reverted to the previous grade if on promotion. Proper management of sick leave during the probationary period is critical, as it is especially important that the focus on prevention of abuse of sick leave be emphasised at the induction stage and any pattern giving rise for concern should be identified and remedied.

Monitoring and Discounting of Sick Leave

28. When considering an officer's suitability for promotion, acting-up, transfer^x or establishment, Departments should examine his/her Civil Service sick leave record over the previous four years worked to ascertain if s/he is capable of regular and effective service. It is a matter for the Department on application from an officer to decide whether sick absences are discounted with regard to the provisions of this circular, the compatibility of the officer's sick absence record with the requirements of regular and effective service, and to any advice given by the CMO.

29. The limits to be applied are not more than 56 days sick leave and (having regard to the pattern of absence) not more than 25 sick absences, in four years, or pro-rata where the service of the officer is less than four years. In applying the limits the following factors should be borne in mind:

- Absences for minor curative or "repair" operations need not be counted;
- Non-recurring illnesses may be ignored;
- Regard should be had to the pattern of absence e.g. if most of the absences have been in the earlier part of the four year period and there has been a

very significant improvement in the last two years the officer may be given the benefit of the doubt;

- Illnesses occurring during pregnancy that are pregnancy-related ordinarily should not be counted. However, it should be recognised that not all illnesses occurring during pregnancy are pregnancy-related; and
- In certain circumstances, an isolated absence that relates to illness that has been stabilised successfully may not be counted. Whilst the condition is life-long and thus cannot be considered non-recurrent, the expectation is that following successful treatment, the officer should be capable of regular and effective service.

30. In making a decision about discounting sick leave absences, Personnel Officers should have regard to any declared disability and the need to make reasonable accommodation for employees with disabilities, subject always to the principle that the officer is capable, competent and available to provide regular and effective service in the post or grade.

Referral of Cases to the Chief Medical Officer for Discounting

31. The role of the CMO with regard to discounting is advisory. Following receipt of the advice of the CMO, the final decision on whether sick leave absences should be counted or not rests with the Head of the Department. In most cases Departments should be able to apply the limits without reference to the CMO and files should not be referred to the CMO unless a question involving expert medical opinion arises.

32. The CMO will not consider cases for discounting unless the case has been referred by a Personnel Unit, and the officer concerned is:

- not on sick leave at the time of the discounting process;
- actually due to be promoted or transferred; or
- has completed the probationary period to the satisfaction of the appropriate authority in terms of work performance/behaviour and conduct; and is being considered for appointment as an established civil servant.

33. An up-to-date four year sick leave record with diagnosis should be provided when referring a case to the CMO. If the CMO requests a treating doctor's report, the officer's treating doctor should be provided with an up-to-date four year sick leave printout, and should submit a confidential medical report to the CMO providing details of the diagnosis and treatment in relation to the specific absences (between specific dates) that the officer is seeking to have discounted.

34. Where a case referred to the CMO has been rejected, an appeal to further medical opinion will be available only where the discounting of a specified absence or absences would reduce the amount of sick leave below the limits specified in paragraph 29. In such circumstances, an officer may apply to his/her Personnel Officer to have his/her case referred to a doctor on the appeal panel. The officer will be required to pay the Department in advance for this appeal, and if s/he is successful, the Department will refund the cost.

35. Where an officer has been selected for promotion but is progressing an appeal against a decision not to discount a period or periods of sick leave (which deem him/her ineligible for promotion) and where such an appeal is ultimately successful, the appointing Department will make an appointment at the next available opportunity. There is an onus on all parties to an appeal to progress it as promptly as possible.

General

36. This policy will be evaluated and updated as required.

37. This circular should be brought to the attention of all civil servants in your Department.

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Brendan Duffy
Assistant Secretary
Personnel and Remuneration Division

Appendix I (Model) Resumption of Work Form

Name : _____

Section : _____

Grade : _____

Personnel Number : _____

First Date of Sick Absence : _____ a.m. _____ p.m. _____

The above named is absent from duty through illness in accordance with telephone call _____

Date of Resumption : _____ a.m. _____ p.m. _____

Officer resumed duty having been absent for : _____ day(s)/weeks

Medical certificate Attached _____ Forwarded to _____ Date _____

Letter of absence Attached _____ Forwarded to _____ Date _____

Has it been confirmed that the officer is fit to resume duty? _____

If necessary has the officer been reminded of the need to notify the absence within one hour of starting time on the first day of sick absence? _____

Has the officer been advised of any work developments during the absence? _____

Has the officer been advised of any special arrangements have were made to cover his/her work? _____

If the absence appeared to be part of a pattern has this been discussed with the officer?

As part of PMDS _____

Otherwise _____

Are there any health and safety implications that the Department should be aware of arising from the absence? _____

Signed: _____

Date _____

This form should be completed by the officer's manager and signed by the officer and the manager

Appendix II Sick Leave Review Meeting

Sick leave review meetings are required where an officer's pattern of absence is of concern - see paragraph 14. The meeting shall be confidential and carried out in a positive and supportive manner. The discussion will concentrate on issues related to absence rather than medical matters. In general, the purpose of a sick leave review meeting will be:

- To advise the officer of his/her sick leave record for the past twelve months, and the previous four years as appropriate, and of the impact of sick leave on career progression and increments;
- To identify and address any problem (work-related or otherwise) that may have caused or contributed to the absences;
- To discuss discernible patterns of absences, where appropriate;
- To ensure that the officer is fully aware of the sick leave regulations/policy;
- To refer to the requirement for reliability and emphasise the necessity for teamwork and impact of absences on all officers;
- To identify practical steps that might be taken to reduce absence levels in the future; and
- To draw the officer's attention to the services provided by the Employee Assistance Officer and Disability Liaison Officer.

The officer should be given notice of the meeting which should state the purpose of the meeting and include a copy of his/her sick leave absences. The manager should confirm with the officer that s/he is available to attend the meeting and should choose an appropriate setting where the meeting can be conducted in private and without interruption.

It is important that a manager is fully prepared before conducting a sick leave review meeting. The meeting should generally be conducted in a structured fashion. Managers should have a set of topics they wish to cover to help identify any underlying causes of absence. If the officer expresses concern about disclosing the reason for the absence, an assurance should be sought from the officer that it was not work-related.

The officer should be reminded of the sick leave regulations and the consequences of exceeding the limits. When the meeting has concluded, the manager must forward written confirmation to the Personnel Unit that a sick leave review meeting has been held together with any other information the officer or manager may feel is relevant. A copy of this documentation should be agreed with and given to the officer.

Appendix III Return to Work Meeting

Officers should attend a return to work meeting after every instance of long-term certified sick absence primarily to facilitate the officer's transition back to work.

It is not envisaged that the return to work meeting should be a time-consuming or very formal process. The level of formality required needs to be assessed by line managers who will take special cognisance of the circumstance surrounding the long-term sick leave on a case-by-case basis. The officer should be given notice of the meeting and such meetings should, where possible, take place no later than the first week after the officer returns to work. The manager should confirm with the officer that s/he is available to attend the meeting and should choose an appropriate setting where the meeting can be conducted in private and without interruption.

The purpose of the meeting would generally include:

- Welcoming the officer back to work;
- Establishing whether any further practical steps may be taken to facilitate the officer's transition back to work;
- Updating the officer on work developments, where appropriate;
- Identifying any updates needed to the officer's PMDS Role Profile Form;
- If necessary drawing the officer's attention to the services provided by the Employee Assistance Officer and Disability Liaison Officer.

When the meeting has concluded, the manager must forward written confirmation to the Personnel Unit as soon as possible that a return to work meeting has been held together with any other information the officer or manager may feel is relevant. A copy of this documentation should be agreed with and given to the officer.

Appendix IV Standard Framework for reporting of sickness absence^{xi}

Standard Framework for Reporting on Sickness Absence		
Sick Days	Description of Calculations	Calculations¹
(A) No. of sick days	Total no. of days lost to sick absence	9,647
Average no. of sick days per FTE ²	(A) divided by the total no. of FTEs	12.24
No. of sick days per employee who availed of sick leave	(A) divided by the total no of employees reported as availing of sick leave	14.98
Average no. of sick days per employee	(A) divided by the total no. of employees serving	10.42
(B) No. of certified sick days	(A) marked as certified sick leave	8,851
(C)No. of uncertified sick days	(A) self reported by officers	796
Lost time rate	(A) divided by the total no. of days in a standard working year (multiplied by number of FTEs) and represented as a percentage	5.35%
Instances		
(D) Total no. of instances		1,614.00
No. of instances per employee	(D) divided by total no. of employees serving	1.74
Average no. of instances per FTE	(D) divided by total no. of FTEs	2.05
Average length of each instance	(A) divided by (D)	5.98
(E) No. of certified instances		943.00
Average length of each certified instance	(B) divided by (E)	9.39
(F) No. of uncertified instances		671.00
Average length of uncertified sick instance (days)	(C) divided by (F)	1.19
Cost of Absences		
Overall cost of absences		€1,650,997
Cost of certified absences		€1,494,853
Cost of uncertified absences		€156,144

¹ The figures shown in this column are for illustration purposes only.

² Full-time equivalent employees.

ⁱ Additional guidance may be provided as appropriate to the organisation's own staff or responsibilities.

ⁱⁱ Recent Equality Tribunal findings regarding the definition of disability within the meaning of the Employment Equality Act 1998 restate that Departments are required to make reasonable accommodation for the needs of a person with a disability to allow that person to undertake his/her duties. Departments should document that they have considered and explored reasonable accommodation options with employees.

Under the Data Protection Acts, 1988 and 2003 medical data is defined as sensitive data. Department's legal responsibilities include obtaining and processing personal data fairly; and retaining the data for no longer than is necessary for the specified purpose or purposes. HR managers should be aware of data protection requirements when entering and processing electronic data.

In relation to the retention of medical certificates supplied on an officer's file, a general retention of four years worked should apply. (Departments should, however, take into account the circumstances of each case and the discounting of sick leave regulations that apply in the Civil Service).

The Safety, Health and Welfare at Work Act 2005 which came into force on 1 September 2005 is the statutory framework for securing the safety, health and welfare of persons at work. Departments have a general duty of care under Health and Safety legislation to ensure, as far as is reasonably practicable, the health and safety of officers. Departments are also obliged to ensure that the safe and effective running of workplaces is not compromised; officers have rights but also have certain statutory obligations. Safety, Health and Welfare are everyone's responsibility - see <http://www.hsa.ie/eng/>

ⁱⁱⁱ Circulars 32/1991, 33/1999, 34/1976; 17/2003, Letter to Personnel Officers 25/01/1988.

^{iv} For "Department" read Department or Office as appropriate.

^v Normally taken to be Principal Officer.

^{vi} Officers who were appointed to the Civil Service on or after 6th April 1995 and who are making an employee contribution in respect of personal superannuation benefits should also provide a MC1 Social Welfare certificate for the first week of sick leave and an MC2 Social Welfare certificate for any subsequent weeks to ensure that the organisation may claim any social welfare benefits due.

^{vii} Individuals with five or more days uncertified leave; more than two periods of certified absence and/or 10 working days absence in the preceding twelve month period.

^{viii} "Late referral to OH (Occupational Health) is associated with a poor prognosis for a return to work. Therefore early referral, ideally around 4-6 weeks after absence begins, should be encouraged" Oxford Handbook of Occupational Health. 1st Edition. Oxford University Press, 2007.

^{ix} The CMO advises that the underlying medical condition is frequently ongoing for at least 4-6 weeks in these circumstances, and often much longer, and thus immediate referral is best practice.

^x These procedures do not apply in relation to the transfer of staff under the arrangements agreed with the unions for transferring staff who wish to remain in Dublin out of decentralising Departments i.e. the "Dublin Arrangements"

^{xi} This format should also be used to report on sick absence under the headings: Grade; Gender; Age; Working pattern; Absence patterns; Long term absences.