



Absence management

3 How do you deal with short-term recurrent absence?

Questions this tool is designed to help you answer

- How do you help managers to deal with short-term recurrent absence?
- How should managers investigate short-term absence?
- What practical steps can be taken to address short-term absence?

We would welcome your feedback

If you have any queries about these tools or would like to contact us, you can get in touch with the CIPD at:

151 The Broadway London SW19 1JQ Tel: 020 8612 6200 Fax: 020 8612 6201

Email: research@cipd.co.uk Website: www.cipd.co.uk

Benefits of this tool

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

For you:

- Develop a systematic approach to dealing with short-term absence.
- Understand the most appropriate responses to the specific circumstances of each case.
- Identify the most useful sources of further guidance and information.

For your organisation:

- Ensure your organisation's response to short-term absence is effective and in line with relevant legislation and best practice.
- Get links to sources of advice, information and best practice.

Who is the tool for?

- HR practitioners in organisations without established absence strategies or policies (or where such strategies or policies are in need of significant revision or updating).
- Operational managers in organisations or parts of organisations without professional HR support.

What's in the tool?

- Advice on how to investigate the causes of short-term recurrent absence.
- Information on developing appropriate responses to deal with the circumstances of individual cases.
- Guidance on how to establish good practice across the organisation as a whole.

Sources of information

How to use the tool

Tool map

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Introduction

Organisations are increasingly recognising the significant costs associated with high levels of employee absence. At the same time, managers are often unsure about the level and nature of the problems they may be facing, or about how these problems are most effectively addressed. Most managers would accept, for example, that some level of absence is inevitable (and that it's generally desirable for employees to be absent from work if they're genuinely ill). Equally, most managers recognise that handling individual absence issues is often complex and potentially sensitive.

The absence management tool is designed to provide a summary of how to manage absence. It includes four tools: Do you have an absence problem?; How do you develop an absence strategy?; How do you deal with short-term absence?; How do you deal with long-term absence?

This tool is intended to help organisations respond effectively to problems with short-term recurrent absence. It's designed to provide practical support to managers who face 'problem' short-term absence.

It will help organisations and managers develop practical responses to short-term absence issues and will lead users towards further sources of relevant information on areas such as handling individual short- and long-term absence cases.

The tool is the result of a collaboration between the CIPD, the Health and Safety Executive and ACAS. It is designed to give a good overview of some of the key issues that need to be considered in order to manage absence effectively, with links to a range of further resources.

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

How do you deal with short-term recurrent absence?

What is short-term recurrent absence and why is it a problem?

If an employee is repeatedly absent for short periods (say, one or two days at a time), this is likely both to undermine the individual's own performance and to be disruptive to colleagues and the wider organisation. In practice, such absence is often difficult to handle because the manager has to consider questions such as:

- At what point does occasional absence start to become problematic?
- Does the absence appear to be justified on medical grounds?
- If so, are there any underlying causes that can be addressed?
- If not, what steps should you take to improve attendance?

In many cases, these questions won't be easy to answer. A high incidence of absence over a given period may not in itself necessarily be problematic if this isn't the norm for the employee and if the causes are evident (for example, a medical condition that recurs over a limited period). On the other hand, if absence is less frequent but persists over a long period (for example, if an employee repeatedly takes one or two days off every month over several months), it may be a greater cause for concern. Similarly, it may well be that some of the absence is attributable to medical causes but overall absence levels still appear excessive. The causes of short-term absence can be very varied, as the CIPD's [annual absence survey](#) confirms. 

Although it's important to treat each case on its merits, it's also essential that employers apply the same standards to all staff. As a starting point, research indicates that the single most effective action to reduce absence is to consistently conduct return-to-work interviews for all staff who have been absent, however long or short the absence period.

Why are return-to-work interviews important and what do they involve?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Return-to-work interviews

Return-to-work interviews should normally be conducted by the employee's immediate supervisor or manager. The interview identifies the cause of the absence and provides an opportunity to explore any particular problems the employee may have. They indicate to employees that their absence was noticed and that they were missed. Above all, they demonstrate that absence is a high priority for the employer and that stated policies are being put into practice.

Return-to-work interviews need to be carried out by managers after every instance of absence, without exception. Managers must be appropriately trained in how to conduct these interviews to help ensure high levels of fairness and consistency. Typically, the manager should:

- enquire into the reason for the absence
- assess whether the reasons offered are consistent with other reliable available evidence
- raise any doubts with the member of staff
- allow the member of staff to explain the absence.

Managers find many competing pressures on their time and it may be tempting to overlook the requirement to carry out the interview. It may be appropriate therefore to install some control mechanism that requires documentary evidence or sign-off that the interview has taken place, such as a form to be returned to the HR department. In any event, it's useful to keep some written record of the interview in case the formal disciplinary procedure needs to be invoked at a future date.

Sources of information

How to use the tool

Tool map

Alongside these standard return-to-work interviews, clear standards should be established about when to first start your investigation of short-term absence. You need to know what level or pattern of absence will act as a 'trigger point' for you to take action.

How do you define trigger points for dealing with short-term absence?

- What kinds and levels of trigger points should be used?

Trigger points (see [Tool 2](#))

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

What initial steps should you take to investigate and identify the causes of the absence?

- What initial steps can you take to investigate the causes of absence?
- What absence patterns are evident?

Investigation

Each case will require different treatment, and the line manager needs to start by gathering as much information as possible about the nature and causes of the absence. Once the trigger point has been reached, the first step will normally be for the manager to review the statistical and other data relating to the absence patterns. Key questions might include:

- Is there any discernible pattern to the absence, for example recurrent absences on Mondays or Fridays?
- What proportion of the absence is certificated or uncertificated?
- What reasons have been given for previous absence? Are the causes varied or does there appear to be a linkage between the various absences?
- What information has been gathered from previous return-to-work interviews?
- What anecdotal or other evidence might be available about possible underlying causes of absence?

It's important that the manager doesn't jump to conclusions simply on the basis of this data, particularly given that anecdotal or similar information may be highly unreliable. However, this kind of analysis will help the manager identify potential issues to explore with the employee.

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

How should you investigate the detailed circumstances of an individual's absence?

- How do you conduct absence reviews with the individual?

Absence review meetings

Following the initial review of the available statistical data, the next step will normally be to conduct an absence review session with the individual. Although this session is likely to be longer and more wide-ranging than a standard return-to-work interview, it shouldn't at this stage be presented or perceived as part of the disciplinary process.

The purpose and style of the meeting should be a positive and constructive one. The employee should be helped and encouraged to understand that their absence levels present a problem to the organisation, and the discussion should then explore the reasons for the absence with the aim of identifying practical steps that might be taken to reduce absence levels in the future.

Conducting an effective absence review requires some skill on the part of the line manager. For managers who are dealing with significant numbers of employees, it may well be advisable for the organisation to provide some training in the skills of absence review meetings as part of the absence management process. Such training helps managers understand some of the potential causes of absence, the kinds of symptoms that might be indicative of particular causal factors, and the approaches that can be adopted when reviewing absence issues with employees.

Ideally, the manager, while always reiterating the organisation's declared attendance standards, will aim to establish a spirit of openness and frankness in the discussion, encouraging the employee to discuss as openly as possible any factors that might be affecting their attendance. The tactics adopted by the manager may depend on the judgements that have been made on the basis of the existing evidence. For example, the manager may suspect that previous absence may have been caused by domestic or similar factors, rather than genuine illness.

In such cases, it might be appropriate to open the session by 'declaring an amnesty' on previous incidents so that the employee is encouraged to speak openly about the reasons for past absence without any fear of resulting disciplinary action. If, on the other hand, the manager suspects that there may be some underlying medical cause behind a series of supposedly disconnected absences, it may be appropriate to focus supportively on the provision of medical help or advice.

[\(continued\)](#)

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Nevertheless, experience suggests that the reasons for high absence levels are often multi-faceted and complex, and may not even be fully understood by the individuals involved. The employee might, for example, be unaware that they have some underlying medical condition, or that there's an underpinning factor, such as alcohol dependency, depression or stress, that's affecting their attendance at work. Even if the employee is aware of these possibilities, the sensitivity of the issues involved may well mean that they're reluctant to discuss them with a third party, particularly in a work context.

The manager should therefore explore all the issues as widely and discursively as possible, avoiding drawing early conclusions, and listening carefully to what's said, how it's expressed, and, in some cases, perhaps also listening for what's not being said.

If the manager feels any doubts about the possible nature or causes of the absence, it could also be appropriate to seek further expert or professional input before proceeding further. In organisations with an HR department, the manager should at least review the case with relevant HR staff before taking any action. In many cases, though, there may be significant doubt about, for example, the precise mix of medical and non-medical causes, or about the genuineness of the stated causes. In these cases, it will generally be appropriate to seek the advice of professional [occupational health advisers](#).

- What further sources of information can you gather?
 - How should you use [occupational health advisers](#)?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Occupational health advisers

Any organisation seriously trying to address absence issues should have access to skilled occupational health advice. Larger organisations may be in a position to employ an in-house doctor, but there are a number of specialist providers in this field, as well as many GPs, who will provide this kind of service on a retained basis for small employers.

The role of the occupational health adviser is to provide a source of independent, expert guidance in interpreting the available evidence. In general, the occupational health adviser won't be in a position to provide a definitive assessment or diagnosis in a given case because they won't have access to the individual's medical history and records. However, they will be able to provide you with advice on what steps you might take to help an employee improve their attendance.

A professional occupational health adviser will be able to help you assess, for example, whether a given pattern of absence is likely to be consistent with a stated medical condition, or whether the available evidence suggests some additional underlying factor that hasn't yet been identified. Above all, the occupational health adviser should be able to advise you on whether additional information is required and, if so, on the most appropriate sources.

o How can you get information from the [individual's GP](#)?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Contact with GPs

In general, if there are apparent medical causes for recurrent absence, it will be necessary to seek the individual's permission to approach their GP for a medical report. In any case, it will generally be appropriate to get a report from the individual's GP before taking any significant action in respect of absence levels, particularly if it could lead to formal disciplinary processes or even dismissal. This is partly a [legal consideration](#), but it's also simply a matter of good management practice. If you act on the basis of a full understanding of the circumstances, you're much more likely to take appropriate action to address the realities of the particular case and avoid mistakes. Having obtained the GP's report, therefore, it might also be appropriate to get further expert input, particularly if the medical considerations aren't clear, for example in cases that are stress-related or which appear to have some non-physical causes. GPs might also be able to provide the employee with advice on how to improve their attendance.

[Model letter of enquiry to GP](#)

- o What should you [do with this information](#)?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Use of medical information

No matter how much information and evidence is sought, experience indicates that decisions on handling absence are rarely straightforward and require a significant level of judgement. You may need to weigh up the evidence provided by the GP, by your own occupation health advisers and by other experts, alongside your own requirements as an employer.

In many cases, the expert input, although valuable, may still be relatively non-committal – it may, for instance, be difficult for a GP, who may only see the patient occasionally, to provide a definitive judgement on their state of health. Even where there are clearly genuine health factors affecting attendance, you will still have to judge whether these appear to justify the levels of absence and whether any action might be taken to alleviate the problem.

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

What action should you take to address the problem?

Does the absence appear to be justified?

If so, what practical steps can you take to help improve attendance?

- Can you provide medical or other support to help improve attendance?
- Can you encourage or support changes in lifestyle?
- Can you provide any kinds of external support that might address, say, stress-related absence, for example financial or domestic advice or support?
- Can you provide practical support to assist attendance, for example in terms of travel-to-work or domestic issues?
- Can you provide any support in dealing with work-related problems, for example in terms of workload or challenges at work?

Taking action

Having weighed up all the available evidence, the manager will need to judge what action is appropriate to address the problem. The key objective here should simply be to address the absence problem, and you should consider any appropriate steps that may help to achieve this end. Formal action on grounds of discipline or capability will generally be the last resort, unless there are very strong reasons for taking immediate action.

The starting point will normally be a constructive discussion with the individual, building on the absence counselling process, which aims to identify practical steps that can be taken to improve attendance. The nature and mix of these steps will depend entirely on the apparent requirements of the specific case, but possible actions might include:

- the provision of medical or similar support that might help the employee to resolve an underlying or recurrent problem ⓘ
- discussing and agreeing specific changes in lifestyle, which might reduce recurrent problems ⓘ
- exploring sources of support and/or advice that might alleviate factors affecting attendance ⓘ
- considering logistical issues relating to the individual's working hours or location, for example if they're working very 'unsocial' hours or have a lengthy journey to work ⓘ
- reviewing the nature and level of the individual's role. ⓘ

[\(continued\)](#)

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

In exploring these and similar options, your aim should be to identify any reasonable steps that might be taken by the organisation to support the individual in improving their attendance. This doesn't mean you're presenting the individual with a 'blank cheque' to make any desired changes – for instance, an employee can't automatically expect to be able to change their working hours because that's more convenient domestically. But it should mean that you're providing practical support that's also consistent with the operational needs of the organisation.

In any case, this isn't a one-way contract. In parallel with exploring these constructive steps, you should be emphasising the individual's own responsibilities for attending work. Depending on the circumstances of the case, you could link any positive support with a tightening of the provisions surrounding absence. For example, you could:

- Indicate to the individual that, following the provision of additional support, you expect absence levels to improve across a defined timescale. If this improvement doesn't happen, or if absence levels increase again in the future, the individual can expect to face more formal disciplinary action.
- Make medical certification a requirement for all absence.
- Insist on a periodic examination by your occupational health advisers to track progress in any health improvements.

This approach is likely to be particularly helpful in cases where there is some reasonable doubt about the legitimacy of the stated reasons for absence. It may be, for example, that the stated medical reasons for absence are genuine, but that their impact on attendance is being exaggerated.

Regardless of the combination of actions you take in a given case, it's essential that monitoring continues over an extended period, with reviews of progress with the individual. The frequency of these reviews will depend on the nature of the problems and the actions you decided on, but initially it will generally be appropriate to meet with the individual at least once a month. Your discussion should review the actions being taken and assess whether they appear to be having the desired effect on the person's absence levels. If there has been no improvement, you'll need to explore the reasons for this, and then take further action if needed, including consideration of formal disciplinary action.

- If the absence doesn't appear to be justified, [what procedures should you follow](#) to help ensure improved attendance?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Procedures for dealing with persistent short-term absence

The ACAS advisory handbook – [Discipline and grievances at work: dealing with absence](#) (1988) – and various principles arising out of case precedents provide employers with further guidance on the procedures to be followed.

An essential starting point is a full and proper investigation of the facts in order to try to find the causes of the recurrent absences. Employers must establish, on the basis of their investigation, whether the cause of the employee's absences is medical or non-medical, since the procedure to be followed – and the reason for dismissal – is different.

If some underlying medical explanation is uncovered, the case should be dealt with accordingly (that is, with the aim of addressing the medical issue in order to help improve attendance). Ultimately, if there is no resolution to the sickness problem, any dismissal will be on the grounds of capability. If, on the other hand, no medical explanation can be found, any dismissal is likely to be on the grounds of misconduct arising out of the employee's poor attendance record.

A further point that must be emphasised is the existence of clear rules and standards when tackling frequent short-term absences. As always when dismissing an employee, the wider circumstances of each case must be taken into consideration. Such factors will include the employee's past attendance record, the existence of any mitigating personal or domestic circumstances, and the likelihood of the employee's attendance record improving in the future. So, although the attendance rules may contain clear trigger points for which disciplinary consequences have been specified, breach of these rules alone may not be sufficient to justify dismissal when the surrounding circumstances are taken into account.

For more on the procedures to be followed in the case of frequent and persistent short-term absence, go to [How to handle short-term absence](#).

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

How to handle short-term absence

The ACAS advisory handbook – [Discipline and grievances at work: dealing with absence](#) – is a useful starting point and recommends the following steps when handling short-term absence:

- Absences should be investigated promptly, and the employee asked to give an explanation of their absence.
- When there is no medical advice to support frequent self-certified absences, the employee should be asked to consult a doctor to establish whether medical treatment is necessary and whether the underlying reason for absence is work-related.
- If after investigation it appears that there were no good reasons for the absences, the matter should be dealt with under the disciplinary procedure.
- Where absences arise from temporary domestic problems, the employer, in deciding appropriate action, should consider whether an improvement in attendance is likely.
- In all cases, the employee should be told what improvement in attendance is expected, and warned of the likely consequences if it doesn't happen.
- If there is no improvement, the employee's length of service, performance, the likelihood of a change in attendance, the availability of alternative work, and the effect of past and future absences on the business should all be taken into account in deciding appropriate action.

ACAS concludes its advice:

'It is essential that the persistent absence is dealt with promptly, firmly and consistently in order to show both the employee concerned and other employees that absence is regarded as a serious matter and may result in dismissal. An examination of records will identify those employees who are regularly absent, and may show an absence pattern. In such cases, employers should make sufficient enquiries to determine whether the absence is because of genuine illness or for other reasons.'

The ACAS guidelines reflect good industrial relations practice, as does this guidance provided by the tribunals and the Employment Appeals Tribunal (EAT). An important case was *International Sports Company Ltd v Thompson* (1980) in which the EAT elaborated on the procedures that employers ought to follow in cases of frequent short-term absence. The key steps are:

- a fair review by the employer of the employee's attendance record and reasons for the absences
- an opportunity for the employee to make representations
- appropriate warnings of dismissal if the situation doesn't improve.

The EAT concluded that if there was no adequate improvement in the attendance record after this procedure, dismissal would be justifiable.

We'll now take a look at each of these [steps in turn](#).

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

The starting point is the use of return-to-work interviews after each spell of absence, with brief notes taken during the discussions. If the pattern of short-term absences persists, there should be a further investigation of the individual's overall absence patterns, number of days lost and the reasons given for each spell of absence. This means keeping absence statistics and, ideally, a computerised system that automatically generates a report when specified absence triggers are passed or specified patterns are identified (for example, regular Friday or Monday absences).

In the case of a first offence, you should have a meeting with the employee to discuss the facts and seek more information. Depending on the procedure, such a meeting may in the first instance consist of an informal counselling discussion or it may form part of the formal disciplinary procedure. It's important that no assumptions or prejudgements are made about the nature of these absences, and the key priority must be to identify whether there might be an underlying medical explanation or whether other personal or domestic circumstances are causing the absences.

In the case of frequent, short-term and apparently unconnected absences, the EAT held that there is no absolute requirement to pursue medical evidence or to contact the employee's GP, unlike the requirement applying to longer-term sickness absences.

Nevertheless, it's always best to be able to demonstrate that you've made reasonable attempts to uncover some underlying explanation. For example, in the case of *Smith v Van Den Berghs and Jurgens Ltd* (1991) the employer was found to have unfairly dismissed an employee for misconduct due to his absenteeism for which no medical evidence had been sought. Medical evidence was subsequently presented to the tribunal by the employee and it was concluded that the absences were for genuine reasons.

Where an employee's absences are mainly self-certificated, it would be appropriate for you to ask an employee for their consent to a medical examination. If an underlying medical explanation is uncovered, the procedures for sickness absence should be followed.

Equally, if the process of investigation and consultation reveals some personal or domestic problems, you should make a note of them and of the employee's views on how they're attempting to solve them. The employee should be allowed time to implement a proposed plan of action, and the situation should be kept under review.

Where no underlying medical explanation or any other mitigating circumstances can be identified, continuing short-term absences should be dealt with through the disciplinary procedure. This involves the use of warnings and possibly also setting attendance targets to be achieved.

In the final analysis, an employer is entitled to conclude that 'enough is enough' and, having investigated the facts, explored the possibility of a medical or other explanation, consulted the employee regularly about the level of absence and followed the disciplinary procedure, any ensuing dismissal is likely to be considered fair.

The key is establishing a fair reason on the basis of the facts and the discussions and acting by applying a fair procedure.

[\(continued\)](#)

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

As well as looking at the individual circumstances of the employee concerned, as the employer, you're entitled to weigh up the impact of the absences on other staff and on the efficiency of the organisation as a whole.

When dismissal is being contemplated, therefore, the EAT has suggested that employers need ultimately to consider the following factors, which will be relevant to their tribunal evidence:

- the nature of any illness, if applicable
- the likelihood of any further absences recurring
- the length and frequency of the absences and the periods of attendance between them
- the employer's need for the work to be done by a particular employee
- the impact of the absences on other employees
- the adoption and exercise of fair and consistent absence policies and procedures
- taking account of the employee's personal assessment in the ultimate decision
- the extent to which the difficulty of the situation and the position of the employer have been explained to the employee.

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

What legal considerations do you need to take into account?

- At what point would the organisation be justified in dismissing the individual for poor attendance?

The statutory framework and the ACAS Code of Practice

Under the Employment Rights Act (ERA) and the subsequent relevant statutes, eligible employees (in the main employees with one year's service) are entitled not to be unfairly dismissed. When determining unfair dismissal claims, tribunals consider two points:

- Has the employer established a potentially fair reason for dismissal?
- Did the employer act reasonably in all the circumstances and use proper procedures?

The ERA establishes the principle of 'potentially fair' reasons for dismissal, and two of these in particular are of concern when contemplating dismissal as a result of absence.

In the case of long-term sickness absence, the potentially fair reason will usually be on the grounds of the employee's capability to perform the kind of work they were employed to do. 'Capability', according to the ERA, is assessed by reference to skill, aptitude, health or any other physical or mental quality, and 'the kind of work' as work the employee could be required to do under the contract of employment, not just the kind of work actually being performed prior to the sickness absence (IRS, 1995a, p3). (Ref to come)

The implication here is that employers are expected to take reasonable steps to find and offer suitable alternative employment either in advance of, but in any event following, an employee's return from sickness absence if appropriate in the light of the employee's state of health.

In the case of persistent short-term absences, on the other hand, the potentially fair reasons for dismissal are likely to be either capability, where investigation has indicated some underlying medical condition, or misconduct, where no medical explanation has been identified.

In exceptional circumstances, the potentially fair reason may be 'some other substantial reason' (SOSR). In all circumstances, the onus of proof is on the employer to establish a potentially fair reason, and if that can't be established, the employer's case will fail.

The second issue that tribunals consider is whether the employer acted reasonably or unreasonably in all the circumstances and used proper procedures. When determining this, tribunals take into account 'the size and administrative resources of the employer's undertaking' and make a decision 'in accordance with equity and the substantial merits of the case'. Tribunals are not bound by precedent and may apply different standards to different employers, taking into account the size of the organisation and all the facts before them. In practice, reasonableness includes:

[\(continued\)](#)

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

- use of proper procedures (as provided for in the ACAS [Code on Disciplinary Practice and Procedures in Employment](#))
- the consistency of the employer's decision in the light of previous dismissals and disciplinary action
- the appropriateness of the dismissal penalty in the light of the offence, the employee's length of service, their previous good record, and any other mitigating circumstances, such as domestic or personal difficulties.

In making their judgement, the tribunals may take the provisions of the ACAS Code into account, and employers who can demonstrate that they've complied with them will be better placed to demonstrate that they have acted reasonably. A useful preliminary step for organisations that wish to tackle absence in a way that can be shown to be reasonable before a tribunal is to audit current disciplinary procedures in the light of the ACAS Code.

However, it's important to note that cases of genuine illness, as distinct from intermittent absences that can't be explained on health grounds, should not be treated as disciplinary cases. According to the EAT judgement in the case of *Lynock v Cereal Packaging Ltd* (1988), genuine illness requires employers to treat each case with sympathy, understanding and compassion, while at the same time giving clear indications of the risks to the employee's continued employment if the sickness absence persists (IDS, 1994c, p21).

The decisions of tribunals, together with further non-statutory guidance on handling absence contained in the ACAS handbook [Discipline and Grievances at Work](#) (1988), require special procedures to be followed.

In the case of longer-term sickness absence, relatively exhaustive processes of enquiry and investigation are required into the nature of the illness, its likely duration and its potential impact on the employee's future employment. Even in the case of persistent shorter spells of absence, although less burdensome, certain processes of investigation are nevertheless also required.

- What are the implications of the [Disability Discrimination Act](#)?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

The impact of the Disability Discrimination Act (1995)

The Disability Discrimination Act came into effect in December 1996 and embodies the rights of people who have 'a physical or mental impairment' that have a 'substantial' and 'long-term adverse effect' on the ability of an employee to carry out 'normal day-to-day activities'.

A 'long-term effect' is one that has lasted or is expected to last at least 12 months.

The Act protects an employee who is disabled according to the above definition from discrimination in all aspects of employment, including recruitment, promotion, transfer, training and dismissal.

Discrimination is defined as the treatment (by an employer) of a disabled person less favourably than others who are not disabled, without justification. It is also discriminatory for employers to fail to make 'reasonable adjustments' to either their premises or their employment arrangements – such as working hours – where a failure to do so would cause a substantial disadvantage to a disabled person, subject to the resources available to the individual employer.

The key issues regarding the handling of short-term absence in respect of an employee who may fall within the definition of a disabled person for the purposes of the Act are:

- 1 Even if an employee hasn't suffered 'impairment' for at least 12 months, they may be protected if medical opinion considers their condition is likely to last that long.
- 2 It's important to bear in mind the definition of discrimination. To discriminate, the employer must treat the employee 'less favourably' than others who don't have a disability within the definition of the Act. It's essential, therefore, that employers treat all absence in the same way, and demonstrate that no one is treated more or less favourably.
- 3 Employers also need to bear in mind the obligation to make 'reasonable adjustments' to the workplace or working arrangements. It would therefore be discriminatory to refuse to implement such adjustments if they were likely to improve the individual's ability to attend work.
- 4 The only circumstances that permit less favourable treatment occur when the employee genuinely can't do the job for which they were employed or any other job that might reasonably be offered, or when reasonable adjustments to the workplace are either impracticable or demonstrably beyond the resources available to the employer.

For more information, see the CIPD factsheet on [Disability and Employment](#)

- What factors do you need to be aware of if the [employee is pregnant](#)?

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Pregnancy

Great care must be taken when dealing with sickness absence during pregnancy as the law says that a pregnant woman may not be subjected to detriment, directly or indirectly, on grounds of pregnancy.

In general, any dismissal arising out of pregnancy will be automatically unfair. However, special provisions exist under the Maternity and Paternity Regulations (1999) regarding pregnancy-related sickness absence occurring in cases where the employee has elected to continue to work after the sixth week before the expected week of childbirth. If an employee goes absent for a pregnancy-related reason in this period, the employer may automatically trigger the start of maternity leave.

In respect of sickness at the end of the maternity leave period in cases where an employee has given notice of her intention to return on a specific date but fails to do so and instead reports in sick, the employer must wait until she is well enough to return (as an employer would be expected to do in the case of any employee unable to return on a previously agreed date after sickness absence because of continuing ill health). Because the employment contract remains in force during maternity leave until the employee gives notice of an intention not to return, the employer should apply the contract terms and sickness arrangements – such as the payment of SSP or occupational sick pay (if applicable) – in the normal way.

Moreover, if an employee has returned from maternity leave but continues to incur absences related to pregnancy or childbirth, any dismissal related to these absences is likely to be seen as automatically unfair, even if they continue for a period of time after her return.

Model letter of enquiry regarding likely cause of absence addressed to an employee's GP

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Doctor's name

Date

Address

PLEASE ACKNOWLEDGE RECEIPT OF THIS LETTER IF THERE IS LIKELY TO BE ANY DELAY IN REPLYING

RE: Name
Address

To administer Statutory Sick Pay, and the Company's sick pay scheme, and to plan the work in the department, it would be helpful to have a report on your patient, who works for our organisation.

His/her work as a has the following major features:

Management responsibility for
Seated/standing/mobile
Light/medium/heavy effort required
Day/shift/night work
Clerical/secretarial duties
Group I (private)/Group II (professional) driver
Other

The absence record for the past year is summarised as:

Total days lost
This month
Previous months

Attached is your patient's permission to enquire. He/she wishes/does not wish to have access to the report under the Access to Medical Reports Act 1988.

Could you provide the following information:

1. What is the likely date of return to work?
2. Will there be any disability at that time?
3. How long is it likely to last?
4. Are there any reasonable adjustments that could be made to accommodate the disability?
5. Is there any underlying medical reason for this attendance record?
6. Is he/she likely to be able to render regular and efficient service in the future?
7. Is there any specific recommendation you wish to make about him/her which would help in finding him/her an alternative job, if that is necessary, and if there is an opportunity for redeployment (for instance, no climbing ladders, no driving)?

I would be grateful for an early reply and enclose a stamped addressed envelope. Please attach your account to the report (following the BMA guidance on fees).

Yours sincerely

Signed Name (BLOCK LETTERS)
Role in the company

Note: Please amend/delete where necessary

Source: ACAS Handbook on [Discipline and Grievances at Work](#)

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

Sources of information

Health and Safety Executive Booklet. [Managing sickness absence and return to work](#), Health and Safety Executive.

ACAS advisory booklet: [Absence and labour turnover](#), ACAS.

[Absence-minded: absence and labour turnover](#) 2006, CBI.

[CIPD factsheet](#)

Books

BEVAN, S., DENCH, S. and HARPER, H. (2004) *How employers manage absence*. London: Department of Trade and Industry.

EVANS, A. and WALTERS, M. (2002) *From absence to attendance*. 2nd ed. London: Chartered Institute of Personnel and Development.

HM REVENUE AND CUSTOMS. (2006) [What to do if your employee is sick](#). Employer Helpbook E14. London: HMRC.

INCOMES DATA SERVICES. (2005) *Absence management*. IDS HR Studies 810. London: IDS.

Journal articles

BEAUMONT, D. (2005) Absence-minded. *People Management*. Vol 11, No 14, 14 July. pp36–38.

EDWARDS, C. (2004) Great returns. *People Management*. Vol. 10 No 9, 6 May. pp35–36.

GRIFFITHS, J. (2005) The price is right. *People Management*. Vol 11, No 22, 10 November. pp34–35.

SILCOX, S. (2006) The ways forward for absence management. *IRS Employment Review*. No 840, 3 February. pp18–20.

SILCOX, S. (2006) Absence and attendance: the challenges for 2006/07. *IRS Employment Review*. No 848, 2 June. pp18–24.

Case studies

Examples drawn from [Heath and Safety Executive research](#)

Useful links

[Advisory, Conciliation and Arbitration Service \(ACAS\)](#)

[Chartered Institute of Personnel and Development](#)

[Health and Safety Executive](#)

[CIPD Absence management factsheet](#)

[Office of the Information Commissioner](#)

How to use the tool

Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map

This tool is intended to help you work systematically through absence issues in your organisation. Consider the heading questions in turn, identifying whether you have enough information to provide a clear and reliable response to each. This step-by-step approach will help you ensure that you're developing a consistent and coherent approach to monitoring absence levels and identifying the most likely causes of absence as the basis for establishing an effective absence strategy. Links throughout provide you with more detailed notes and information on related subjects.

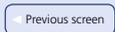
Tool map



Use this to see an overview of the tool layout. Click on the appropriate section if you wish to go directly to an activity or diagram, or you can follow the tool through in sequence.



Where you see this symbol, hover the cursor over it for more information using your mouse.



Click on these buttons (in the corner of some pages) to return to your original position in the tool or move on to the next page in a series.

Thumbnail



Accessed at the side of Acrobat's program window. Use this to view quickly the length and appearance of the tool.

Bookmark



Use this to see at a glance the different sections within the tool. Click where you wish to go with your mouse to navigate quickly within the tool.

Print



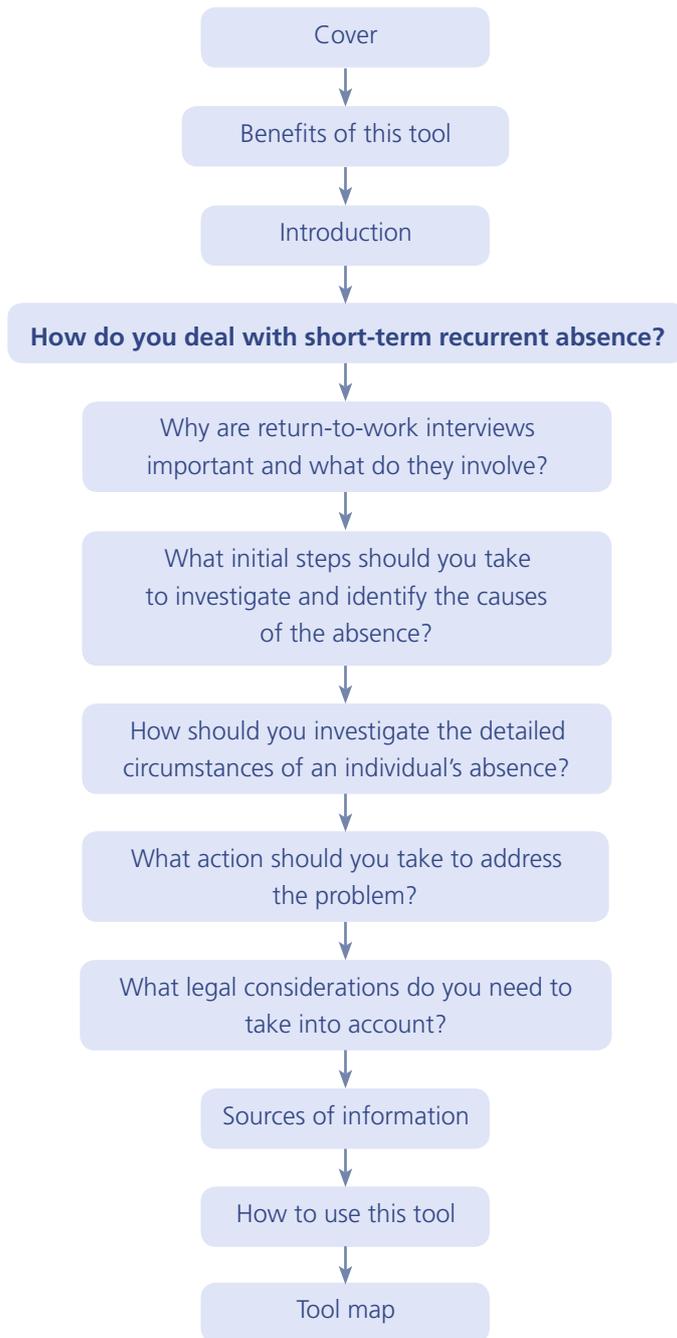
Use this facility to print the tool out (including any sections you have completed online). Please note that it is not currently possible to save your work in the tool.

Hyperlinks

[Red links](#) will link you to the CIPD website or an external website.

[Blue links](#) will link you to other areas within the tool.

Tool map



Cover

Benefits of this tool

Introduction

How do you deal with short-term recurrent absence?

Why are return-to-work interviews important and what do they involve?

What initial steps should you take to investigate and identify the causes of the absence?

How should you investigate the detailed circumstances of an individual's absence?

What action should you take to address the problem?

What legal considerations do you need to take into account?

Sources of information

How to use the tool

Tool map