

MANAGING SICK LEAVE

A guide to managing absence in the workplace

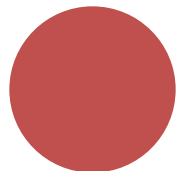




"We're a small company, so sick leave means if you get sick you leave."

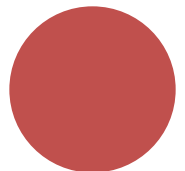
OVERVIEW

- Understanding and acknowledging problems with excessive sick leave can be a challenge.
- If ignored, the detrimental effects impact the manager/team leader, the team, the individual and all areas of Council.
- Develop tools for confidently discussing and managing issues.
- Not all situations are the same so consider which of the following options are appropriate before acting.
- Regardless of which options you choose to use, ensure you apply these consistently.

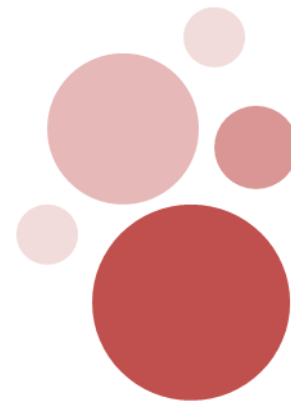


PRESENTATION CONTENT

- Understanding sick leave and when there is a problem
- Proactive management and approval of sick leave
- When to request for additional/alternative medical information
- Performance and team management
- The return to work interview
- When to take things further
- Medical incapacity
- Questions, comments, feedback



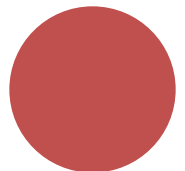
UNDERSTANDING SICK
LEAVE AND WHEN THERE IS
A PROBLEM



HOLIDAYS ACT 2003

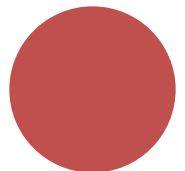
“Sick leave can be used when an employee is sick or injured, or when the employee’s spouse or partner or a person who depends on the employee for care (such as a child or elderly parent) is sick or injured”

- “Sick” means unfit for health reasons of any nature however caused (including stress and hangovers).



NPDC POLICY

- Sick leave is provided for employees in order for them to have time off in the event of illness of themselves or a dependent such as a child, spouse or elderly relative.
- If an employee is applying for leave for a dependent then they should be applying for Domestic Leave (apply as SL and select DL as the reason).
- Entitlements are specified in the Collective Employment Agreements or in the Core Conditions attached to an Individual Employment Agreement.
- Fixed term permanent employees are entitled to 10 working days sick leave paid at their relevant daily pay.
- Sick leave begins to accumulate after the first month of employment.
- For full details refer to the Policy or the relevant Agreement.



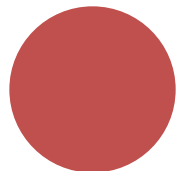
AFFINITY

- **Accrual:** The amount that has accumulated (on a pro rata basis) since commencing employment with the Council or since the most recent anniversary date.
- **Entitlement:** The balance of sick leave that an employee has accumulated from their start date until their last anniversary date. An employee's accrual becomes their entitlement on the anniversary of their start date.
- **Total:** Accrual plus Entitlement

An employee should only take leave they are entitled to as their accrual is what their projected entitlement will be.

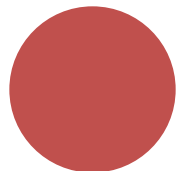
Never approve leave that will result in a negative balance.

Use monthly sick leave usage reports to monitor patterns.



UNDERSTANDING LEAVE ENTITLEMENTS

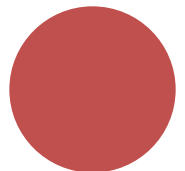
Name	Accrual	Entitlement	Total	SL applied	New Accrual	New Entitlement	New Total	Approve?
Lisa Jones	24	10	34	30	24	-20	4	No
Derek Tate	10	-15	-5	5	10	-20	-10	No
Sarah Lin	22	-10	12	8	22	-18	4	No
James Sims	12	17	29	5	12	12	24	Yes
Jed Smith	37	8	23	12	37	-4	11	Maybe



CASE STUDY 1

Mr. Browne vs. NZ Refinery Company

Is an employee who is on sick leave required to stay at home in bed?



CASE STUDY 1 - *Mr. Browne vs. NZ Refinery Company*

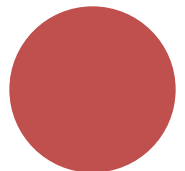
Who won?

The employment court ordered Mr Browne be reinstated to his former position and be paid lost wages.

In making a decision, the court noted:

- That legally there is no requirement for sick leave to be spent at home.
- The Company had made no attempt to verify Mr Crispin's account before making a decision to dismiss Mr Browne.

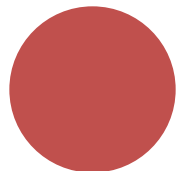
In summary, the Company had failed to comply with legislation and failed to follow due process.



CASE STUDY 1 - *Mr. Browne vs. NZ Refinery Company*

What could the Company have done differently?

- Request that Mr Browne obtain a medical certificate from his doctor setting out the benefits that fishing has in treating his condition. Or get an official opinion from the Company doctor.
- Request that the doctor provide suggestions for how Mr Browne could better manage his condition.

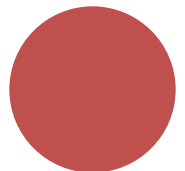


PROACTIVE MANAGEMENT AND APPROVAL OF SICK LEAVE



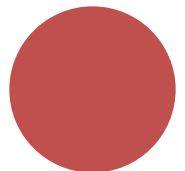
SET EXPECTATIONS FROM THE OUTSET

- Give advance notice of sickness where possible.
- Attempts must be made to contact you (or another suitable delegate) directly. Don't accept a text message or voicemail.
- If they don't turn up for work and you don't receive any notification you must make attempts to contact them.
- Make a phone call to them during the day to see how they are feeling.
- Don't approve for annual leave to be taken in the absence of sick leave entitlement.
- Request that a medical certificate be provided for 3 days or more, or for 1 day if problems exist (with prior notification) however you must talk to HR before initiating this.
- In some instances request that a medical certificate be provided even if the absence is for domestic leave. Again, talk to HR first.



WHEN AN EMPLOYEE RETURNS TO WORK WITHOUT MEDICAL CLEARANCE

- An employee should always be medically fit to be at work.
- They have an obligation to ensure they are, but so do we.
- If they return to work before the expiry of their medical certificate, you should request that they obtain clearance.
- If an employee has been away for a period of time but they return to work after their certificate has expired then you do not need to request for a clearance certificate, unless you have concerns that they are still not medically fit for work.



WHEN TO REQUEST FOR ADDITIONAL / ALTERNATIVE MEDICAL INFORMATION



DoctorsNoteStore

FAKE & REPLICA SICK NOTES - UK AND AUSTRALIA

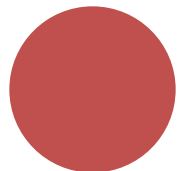
- HOME PAGE
- NHS FIT NOTE
- UK PRIVATE
- AUSTRALIA
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Sick Note From Any Australian Doctor/Any Doctors Clinic in Australia
Our Price NOW ONLY AUD\$15 for 2 - On your doorstep in less than a week

QUESTIONS TO ASK YOURSELF FIRST

- Does the employee have a history of excessive sick leave?
- Do you have concerns about the validity of their medical certificate?
- How long does the medical certificate state the employee will be away for?
- What are you trying to achieve by requesting for alternative/additional information?
- Will you be breaching privacy and/or can you prove you have followed a robust and consistent process?
- Does the employee have a history of doctor shopping?





MR

NFS

To WHOM IT MAY CONCERN

GP:

, N

PH:

This is to certify that _____

has received treatment at Taranaki District Health Board and is currently unable to attend work through illness.

The anticipated date of return to work is _____ with the following restrictions:

Signature _____

Designation House officer

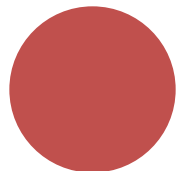
Printed _____

Date 22/10/09

OPTIONS TO CONSIDER

The following options can be managed by the Occupational Health Nurse:

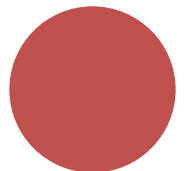
- Provide the doctor with a list of duties the employee is responsible for, and request that they confirm if the employee's absence is entirely necessary or if there are alternative duties that they could undertake.
- Contact the doctor and advise that you have concerns about the employee's use of sick leave.
- Suggest that the doctor undertake a health assessment with the employee.
- Request that the employee attend a Council doctor for a second opinion (providing reasons).



CASE STUDY 2

Mr. Griffith vs. Sunbeam Corporation Ltd (2006)

What lengths can an employer go to if they believe an employee is lying to them about being sick?



CASE STUDY 2 - *Mr. Griffith vs. Sunbeam Corporation*

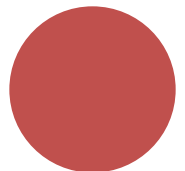
Who won?

The employment court upheld Sunbeams decision to dismiss Mr. Griffiths.

In making a decision, the court noted:

- That *“...in most instances the employer must trust the employee to exercise the right to take sick leave honestly because it is impractical to do otherwise. It may also be said that, in general, abuse of the right to paid sick leave will be serious because it involves obtaining payment by a false pretence or, at least, attempting to do so.”*

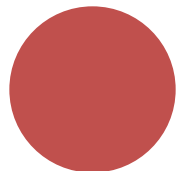
In summary, Mr. Griffith had breached the trust and confidence associated with taking sick leave.



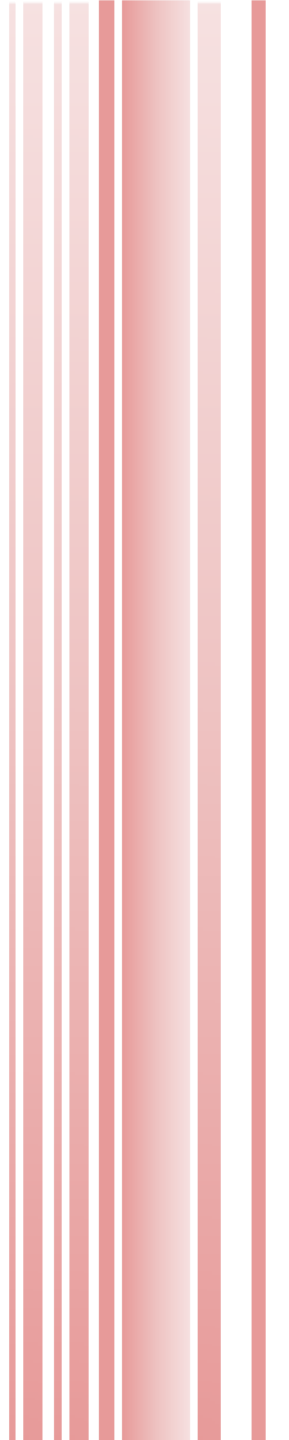
CASE STUDY 2 - *Mr. Griffiths vs. Sunbeam Corporation*

What lessons can we learn from this?

- Abuse of sick leave is viewed very seriously by the courts and employees engaging in such conduct are unlikely to receive much sympathy.
- Getting the evidence is not easy and employers may have to go to some lengths to prove wrongdoing.
- Important to consider each situation before acting. In this instance, it is safe to assume that there had been problems with Mr. Griffiths for some time.



PERFORMANCE AND TEAM MANAGEMENT

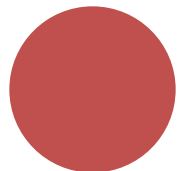




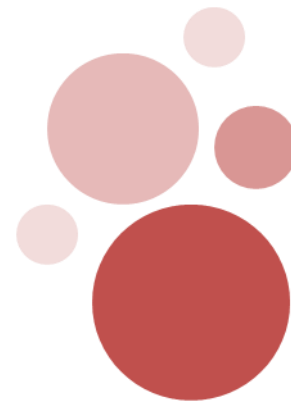
**“Your absence confirmed you are
as expendable as your appendix,
Merryweather!”**

SUGGESTIONS FOR MANAGING WORK PERFORMANCE

- Calculate the amount of the employee's workload that others in the team have to manage because of ongoing absence.
- Determine whether performance measures and targets previously set are being met, and if not, ensure employee is rated accordingly.
- Investigate the employee's internet usage to determine their level of productivity at work.
- If an employee is missed when absent from work, work with them, if they aren't, consider asking yourself why.



THE RETURN TO WORK INTERVIEW

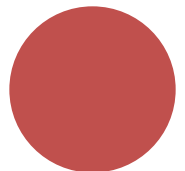




“Before your ‘routine’ surgery,
your manager would like to stop by
and give you a ‘routine’ exit interview.”

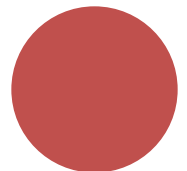
WHAT AND WHY?

- A return to work interview is a short questionnaire you take an employee through if they have been on sick leave.
- Recent surveys indicate that a return to work interview is one of the most effective tools for managing short-term absenteeism.
- Enables the manager to welcome the employee back to work, demonstrates commitment to managing absenteeism and ensures the employee is well enough to be back at work.
- May act as a deterrent for others considering taking a “sickie”.



SOME CONSIDERATIONS TO MAKE

- Interviews must be carried out as promptly as possible following the employee's return to work.
- The goal is to foster an open and supportive environment, not one that is accusatory or threatening.
- The employee should be given ample opportunity to respond.
- Questions can also be delivered with the intent of exploring any work related issues that the employee may be experiencing.
- Make the employee aware that their absence had an impact on the team and give examples of how productivity has suffered.
- Take this opportunity to advise the employee of any changes that have occurred in their absence.
- Consider discussing alternative employment arrangements.



WHEN TO TAKE THINGS FURTHER



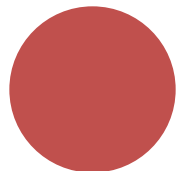


"WE DON'T HAVE A SICK LEAVE POLICY. HOWEVER
IF YOU DIE, YOU LEAVE EVERYTHING TO US."

INVESTIGATING MORE FORMAL ACTION

It is generally acceptable to consider investigating more formal action in the following circumstances:

- You have made attempts to understand and rectify an employee's use of sick leave, but their absence continues.
- The employee continues to provide medical certificates that you cannot decipher information from.
- The employee chooses not to disclose any information regarding their absence in the return to work interview.
- The employee is not performing even when they are at work.

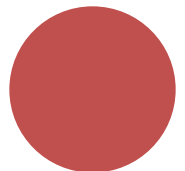


CONSIDERING DISCIPLINARY ACTION?

Disciplinary action is serious and cannot be justified unless:

- A stringent process has been followed
- You can clearly provide evidence of ongoing problems
- Sufficient effort has been made to support the employee and resolve the issues (outside of disciplinary action).

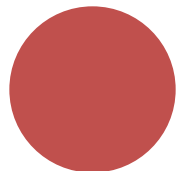
Talk to Human Resources **BEFORE** initiating any disciplinary action.



CASE STUDY 3

Mr. Southcombe vs. Freedom Air Ltd (2007)

Can an employee still be dismissed if they have provided a genuine medical certificate?



CASE STUDY 3 - *Mr. Southcombe vs. Freedom Air*

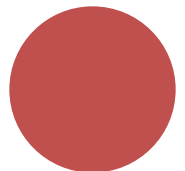
Who won?

The Authority held that Mr. Southcombe's dismissal was justified.

In making a decision, the Authority concluded:

- That Freedom Air had carried out a full and fair investigation before concluding that Mr. Southcombe's use of sick leave was disingenuous.

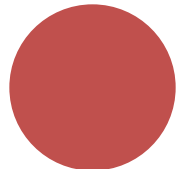
In summary, the Authority questioned what a fair and reasonable employer would have done in this circumstance, and concluded that a finding of serious misconduct was acceptable.



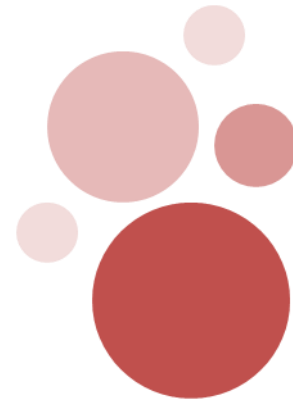
CASE STUDY 3 - *Mr. Southcombe vs. Freedom Air*

What lessons can we learn from this?

- Always follow due process!



MEDICAL INCAPACITY



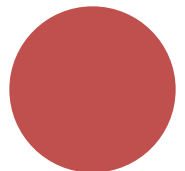


'It's a sick note from Benson...looks like he's going for the long haul.'

FACTORS TO CONSIDER

- The length of time that the job can be held open for.
- Term of the employment agreement.
- Probability of long term employment.
- Nature of employment.
- Nature and duration of incapacity.
- The length of employment to date.
- Degree to which the incapacity was caused by the employer (if applicable).

Always talk to Human Resources **BEFORE** initiating this process.

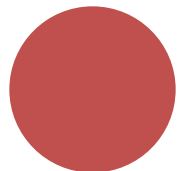


TO SUMMARISE...



SUMMARY

- Understand sick leave entitlement, policy and application.
- Set expectations around the use of sick leave from the outset.
- Consider what you want to achieve before acting.
- Avoid the temptation to jump to conclusions.
- Keep good records and always ensure you are following due process.
- Discuss your options with HR and/or the OHN first.



QUESTIONS?

COMMENTS?

FEEDBACK?

