4. Supporting Staff through Sickness

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November 2005
Aim of the Code of Practice

The aim is to ensure that managers:
1. treat staff in a way that is sensitive, fair and which balances the needs of the individual and the College;
2. offer support to staff who are sick to enable them to improve attendance or return to work as soon as their condition allows;
3. apply a consistent approach to the reporting, monitoring and management of attendance;
4. deal effectively and lawfully with absence when it threatens the achievement of work objectives.

This Code of Practice, is not intended to be “disciplinary” or punitive in nature. Throughout the Code, the key issue for managers is not misconduct but capability - whether the employee will be able to give regular and efficient service. Where there is strong evidence of misconduct (eg attending a sporting event or working for another employer while claiming to be sick) the Code of Practice on Discipline should be used.

The College also has separate procedures1 which apply to:
1. health and safety risk assessment
2. maternity and pregnancy
3. flexible working
4. compassionate leave
5. ill-health retirement
6. Managing Persistent Sickness Absence. However, managers will not initiate action under the Code of Practice on Managing Persistent Sickness Absence until action under the Code of Practice on Supporting Staff through Sickness has been completed.

1. See Appendix 3 page 4.15 for the relevant web-page.
The right to absence when sick is a central part of the 'contract' between employer and employee. Employers have moral and legal duties to prevent people from being made ill by the jobs they do. Equally, there is a duty on staff not to be absent without good reason.

It is in the College's own interests to support those who are off sick, and to help them return to work.

Managers will:
1. take reasonable steps to work with the employee in tackling health, work or welfare problems - including work-related stress;
2. seek to understand, and if need be, take relevant advice on:
   - the nature of any sickness absence;
   - its impact on the employee's ability to work;
   - any impact the employee's work may have on their health;
3. explore any options with the employee which may permit them to:
   - improve attendance; or
   - return to work; or
   - otherwise resolve work issues caused by the employee's absence or condition;
4. respect the employee's right to medical confidentiality;
5. consider any other issues or obligations under the Disability Discrimination Act, regulations on the treatment of pregnant staff, etc.;
6. complete action under this Code of Practice before initiating any action needed under the Code of Practice on Managing Persistent Sickness Absence.

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1. For example, the College's Health and Safety Policy requires managers to make and keep a written assessment of the risks to the health and safety of staff (and others) arising from their work.
2. See box on page 4.3 - “Sources of Advice”
3. Pregnancy is not a sickness. However, the College requires its managers to comply with legal duties by (among other things):
   - writing and keeping a risk assessment specifically for staff who may become pregnant; and
   - carrying out a further risk assessment with the pregnant employee as soon as she notifies that she is expecting a child; and
   - making necessary adjustments to work arrangements to protect the safety of the mother and baby during the pregnancy; and
   - allowing reasonable time-off for visits to ante-natal clinics, etc.
Sources of advice:

**Occupational Health Service** (OHS)

The OHS is a team of specialist medical and nurse practitioners which aims (among other things) to:
- maintain employee well-being at work
- prevent staff from becoming ill as a result of their job
- enable staff with a health condition or disability to remain at work; or to return to work after being unwell.

It can advise:
- **employees** on how health issues may impact on their work; how to cope with their condition and where appropriate, how to seek further assistance from their GPs or other specialists.
- **managers** on how work may affect employee health and also how the health of their employees may affect their ability to carry out the job.

**Confidentiality**

The OHS is a confidential service and an employee’s personal and health information is not shared outside the OH department without their written consent. This is a legal requirement.

**Environmental Health and Safety Department**

This College department offers up-to-date and expert advice on how to comply with College safety policies and health and safety law. It offers managers advice and training on health issues relating to the environment or work-place - including the carrying out of risk assessments.

**Human Resources Department**

The HR department can offer advice and guidance on:
- procedural issues and HR concepts
- how to handle cases of varying complexity including those involving stress, depression, disability, etc;
- arranging home visits in long-term sickness cases;
- ensuring consistency of approach across departments.

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1. Contact information is on the QMUL web-site. Web-links to related Codes, policies and procedures are set out in Appendix 3 on page 4.15.
Outline of procedure

The procedure describes four processes:
- informal action and support for the employee
- advice from HR
- in appropriate cases, referral to the Occupational Health Service
- discussing the medical position and options.

**Informal action and support for the employee**

- To raise concerns and seek a joint resolution to any problems.

**If need be, advice from HR**

- To consult HR on the personnel issues and the merits of a referral to OHS

**If need be, refer to OHS for medical advice**

- To take medical/health and safety advice and investigate the options available to the employee and the manager.

**Discussing the medical position and options**

- To discuss the medical advice received and the options available.

If action under this Code of Practice is complete and the matter is not resolved, the manager may initiate action under the Code of Practice on *Managing Persistent Sickness Absence.*
<table>
<thead>
<tr>
<th>Time-scales</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal action and support</td>
<td>Managers will raise matters which impact on attendance in good time and with no unreasonable delay;</td>
</tr>
<tr>
<td>Seek advice from HR</td>
<td>Managers will raise matters with HR in good time and with no unreasonable delay;</td>
</tr>
<tr>
<td>If need be, refer to Occupational Health Service</td>
<td>Managers will:</td>
</tr>
<tr>
<td></td>
<td>- be guided(^1) by the indicators on page 4.7;</td>
</tr>
<tr>
<td></td>
<td>- act promptly, since taking medical advice may be a protracted process</td>
</tr>
<tr>
<td>Meeting to discuss the medical position</td>
<td>Managers will act promptly to arrange the meeting when either:</td>
</tr>
<tr>
<td></td>
<td>- medical advice is provided by the OHS; or</td>
</tr>
<tr>
<td></td>
<td>- no further medical advice is expected</td>
</tr>
</tbody>
</table>

\(^1\) The timescales for sickness absence notification are set out in Appendix 1 on page 4.13
# HR Code of Practice

**Supporting Staff through Sickness**

## Authority to make decisions

<table>
<thead>
<tr>
<th>Line manager</th>
<th>Decisions about monitoring standards of attendance and their effect on performance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The head of department (or another manager nominated by them)</td>
<td>In consultation with HR, decisions to refer to Occupational Health Service for medical advice. Decisions to consult Health and Safety over concerns about the workplace. Decisions about applying the options for action on page 4.12</td>
</tr>
</tbody>
</table>
## Guidelines\(^1\) for action

### Work-related conditions

| The employee reports stress, depression or any work-related condition | Consult HR and take medical advice from OHS. On return to work, discuss with employee. |

### Short-term absences

| A pattern of absence becomes apparent; or 3 periods of absence in any 4 month period\(^2\) | Consult HR and, if need be, take advice from Occupational Health Service. |
| 20 working days’ absence in any twelve month period | Manager to report to head of department on action so far. |

### Longer-term absences

| 4 weeks continuous sickness absence | Consult HR and if need be:  
- take medical advice from OHS  
- begin sympathetic and regular contact with the employee (this is likely to have started earlier. HR may be asked to assist in this.) |

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1. Discretion, sensitivity and good practice are vital in handling individual cases. The indicators above are intended to guide rather than bind managers.
2. Take into account the wider context of the employee’s absence record. An employee with an otherwise good attendance record is unlikely to merit referral.
HR Code of Practice  
Supporting Staff through Sickness

Informal action and support for the employee

<table>
<thead>
<tr>
<th>Managers will, in informal meetings and discussions:</th>
<th>The employee is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. investigate and seek to understand the reasons for sickness absence, and any work, welfare or domestic problems which may underlie it;</td>
<td>❖ entitled to:</td>
</tr>
<tr>
<td>2. be flexible about arrangements to discuss sensitive medical issues;</td>
<td>1. raise any concerns;</td>
</tr>
<tr>
<td>3. raise any management concerns and explain the effect of absence on the work;</td>
<td>2. the right to medical confidentiality;</td>
</tr>
<tr>
<td>4. explore any options which may permit the employee to return to work or improve attendance;</td>
<td>3. access to any records or notes of matters discussed.</td>
</tr>
<tr>
<td>5. explain that if concerns continue, the next stage will be to take advice from HR, and if need be to make a referral to the OHS</td>
<td>❖ is responsible for:</td>
</tr>
<tr>
<td>6. keep accurate records and notes of the matters discussed.</td>
<td>1. informing the manager of the cause of sickness absence;</td>
</tr>
</tbody>
</table>

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1. This includes all the normal processes of management, and in particular, health and safety risk assessment, informal discussions, procedures to report and certify sickness, return to work interviews, supervision and other meetings to plan and monitor progress.

2. For example, the employee may wish to talk to (or bring with them) someone of the same gender, or a union or other representative.

3. Some of the options available to staff and managers are discussed on page 4.12.
### Advice from HR

<table>
<thead>
<tr>
<th>Where appropriate, the manager will:</th>
<th>The employee is entitled to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. take advice from HR on the personnel issues in the case and discuss with them the merits of a referral to OHS;</td>
<td>1. the right to medical confidentiality;</td>
</tr>
<tr>
<td>2. make a decision on how to proceed and if need be:</td>
<td>2. be told if the manager decides that a referral to OHS is appropriate.</td>
</tr>
<tr>
<td>- take advice(^1) on any medical or health and safety issues;</td>
<td></td>
</tr>
<tr>
<td>- initiate a referral to the OHS (see page 4.10);</td>
<td></td>
</tr>
<tr>
<td>3. keep the employee informed.</td>
<td></td>
</tr>
</tbody>
</table>

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1. See page 4.3 for sources of advice
HR Code of Practice
Supporting Staff through Sickness

Referral to the Occupational Health Service

<table>
<thead>
<tr>
<th>Where appropriate, the manager will:</th>
<th>The employee is entitled to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. seek specific medical advice(^1) from the OHS appropriate to the case using the College’s standard forms and procedures;</td>
<td>1. the right to medical confidentiality;</td>
</tr>
<tr>
<td>2. ensure that the employee is informed about the reason for the referral;</td>
<td>2. be told if they are being referred to the Occupational Health Service and the reason for any referral;</td>
</tr>
<tr>
<td>3. supply HR and the Occupational Health Service with the information they require to advise on the case;</td>
<td>3. refuse or consent to a medical report from their own GP/specialists;</td>
</tr>
<tr>
<td>4. in cases where the employee refuses consent either to:</td>
<td>4. the opportunity to see, veto or comment on such a report before it is submitted to the College (subject to conditions set out in the Access to Medical Reports Act 1988);</td>
</tr>
<tr>
<td>- a medical report(^2); or</td>
<td>5. request access to any report on them prepared by the College’s Occupational Health Service (subject to conditions set out in the Access to Health Records Act 1990).</td>
</tr>
<tr>
<td>- a referral to the OHS(^3);</td>
<td></td>
</tr>
</tbody>
</table>

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1. Normally HR will arrange the referral to OHS for medical advice.
2. If an employee refuses consent to a medical report, managers will simply proceed on the basis of the medical advice available - if there is any.
3. If an employee refuses to attend the OHS, College sick pay may be stopped as the refusal puts the employee in breach of the conditions of the scheme. The employee may however still qualify for statutory sick pay.
Discussing the medical position and options

<table>
<thead>
<tr>
<th>The manager will:</th>
<th>The employee is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. consider the medical advice and discuss it with the employee</td>
<td>❖ entitled to:</td>
</tr>
<tr>
<td>2. discuss any appropriate option(^1) which may permit the employee to return to work or to improve attendance;</td>
<td>1. raise any concerns;</td>
</tr>
<tr>
<td>3. explain that if the matter is not resolved, the manager will consider, as the next step, initiating the Code of Practice on Managing Persistent Sickness Absence;</td>
<td>2. the right to medical confidentiality;</td>
</tr>
<tr>
<td>4. explain that they will keep the matter under review.</td>
<td>3. access to any records or notes of matters discussed;</td>
</tr>
<tr>
<td></td>
<td>4. time to consider and take independent advice on any options discussed with them.</td>
</tr>
</tbody>
</table>

\(^1\) Some of the options available to staff and managers are discussed on page 4.12.
Options for resolving the case under this Code of Practice

In appropriate cases, managers may consider, in consultation with OHS and HR:

1. arrangements for a phased return to work; and
2. reasonable adaptations to the work, work place or working arrangements (the College’s standards on managing change and job evaluation must be followed).

In appropriate cases, managers may also sensitively explore with the employee some of the following options. These are designed to enable the College to resolve its service delivery problems without the need to pursue the case by initiating the Code of Practice on Managing Persistent Sickness Absence.

In mutual agreement with the employee, the manager may seek to:

1. transfer the employee to another suitable job within the department, provided one exists;
2. redeploy the employee to another suitable job within the College, provided one exists;
3. explore any opportunities for flexible working using the Code of Practice on Requests for Flexible Working;
4. end the employment contract subject to:
   - the provisions of any relevant College scheme or pension scheme;
   - an agreement to buy out outstanding entitlement to sick pay. In effect, there would be mutual agreement that the employment should end before the employee’s entitlement to sick leave expires, but that their entitlement to sick pay and notice should be protected and paid in full;
   - a compromise agreement.

1. Further information can be found in the Redeployment Key Concepts
2. For example, the employee may meet the conditions for the ill-health retirement scheme or one of the College’s agreed exit schemes.
3. If appropriate to the circumstances of the case. For example, it would not normally be appropriate to protect an employee’s sick-pay entitlement in cases where the OHS is advising that there is no underlying medical condition.
4. A “compromise agreement” allows the parties to settle a potential dispute about employment by a legally binding agreement. To be legally binding, the employee must take independent legal advice. Managers should take advice from HR about compromise agreements.
# Appendix 1: Sickness Absence Notification Procedure

<table>
<thead>
<tr>
<th>1st day of sickness</th>
<th>Employee reports sick to head of department (or nominee) who completes sickness form and forwards top copy to HR.</th>
</tr>
</thead>
<tbody>
<tr>
<td>8th day of sickness (including non-working days)</td>
<td>Employee begins to supply doctor’s certificate for any further absence. Head of department (or nominee) forwards this to HR.</td>
</tr>
<tr>
<td>At the earliest opportunity after receiving a “may be fit to work” note from the doctor (normally the same working day or the next working day after the fit note is issued).</td>
<td>Employee contacts the line manager and (normally) arranges to attend work to discuss the doctor’s advice and consider whether a return to work is possible. Similarly, the line manager will arrange to meet the employee and consider the doctor’s advice as soon as is practicably possible.</td>
</tr>
</tbody>
</table>
| Return to work after any sickness | Employee completes (with the line manager) a self-certificate form for any period prior to a doctor’s certificate. In appropriate cases, the manager meets the employee to:  
- acknowledge their return to work  
- discuss work-related events or issues that arose during the absence  
- discuss any residual health issues.  
- offer reasonable support if needed. |
| The employee reports stress, depression or any work-related condition | The line manager consults HR and takes medical advice from OHS. On return to work, discuss with employee. |
Appendix 2:
QMUL Paid sick-leave entitlement

Sick leave entitlement is set out in the box below and is dependent upon the period of the employee’s continuous service with the College.

<table>
<thead>
<tr>
<th>Period of continuous service</th>
<th>Full-pay Period</th>
<th>Half-pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 3 years</td>
<td>3 months</td>
<td>3 months</td>
</tr>
<tr>
<td>3 years and over</td>
<td>6 months</td>
<td>6 months</td>
</tr>
</tbody>
</table>

1. The College has discretion in appropriate cases to extend the employee’s entitlement to full or half pay.
## Appendix 3:
Web-links to related Codes, policies or procedures

<table>
<thead>
<tr>
<th>Reference</th>
<th>Web-link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health and safety risk assessment</td>
<td><a href="http://qm-web.admin.qmul.ac.uk/safety/topics/index.html">http://qm-web.admin.qmul.ac.uk/safety/topics/index.html</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://qm-web.admin.qmul.ac.uk/humanresources/policies/maternity_leave.htm">http://qm-web.admin.qmul.ac.uk/humanresources/policies/maternity_leave.htm</a></td>
</tr>
<tr>
<td>Flexible working</td>
<td><a href="http://qm-web.admin.qmul.ac.uk/humanresources/policies/11.%20Request%20for%20Flexible%20Working.pdf">http://qm-web.admin.qmul.ac.uk/humanresources/policies/11.%20Request%20for%20Flexible%20Working.pdf</a></td>
</tr>
<tr>
<td>Compassionate leave</td>
<td><a href="http://qm-web.admin.qmul.ac.uk/humanresources/policies/compleave_policy.htm">http://qm-web.admin.qmul.ac.uk/humanresources/policies/compleave_policy.htm</a></td>
</tr>
</tbody>
</table>
| Ill-health retirement                               | **For staff in the USS pension scheme:** [http://www.ushq.co.uk/downloads/pdf/all_sections/communications/factsheets/FS10.pdf](http://www.ushq.co.uk/downloads/pdf/all_sections/communications/factsheets/FS10.pdf)  
**For staff in the SAUL pension scheme:** [http://www.saul.org.uk/pdf/members-booklet.pdf](http://www.saul.org.uk/pdf/members-booklet.pdf)  
**For staff in the NHS pension scheme:** [http://www.nhspa.gov.uk/booklets_new/sder.pdf](http://www.nhspa.gov.uk/booklets_new/sder.pdf) |
| Code of Practice on Managing Persistent Sickness Absence. | [http://qm-web.admin.qmul.ac.uk/humanresources/policies/](http://qm-web.admin.qmul.ac.uk/humanresources/policies/) |