

RAINEY COLLINS LAWYERS

Employers' Guide to Long Term Sickness

Dealing with staff off work with long term sickness can be a difficult and stressful experience and unless you get the process right you could face a personal grievance or unjustified dismissal claim. Here are the steps to follow after they have exhausted their sick leave entitlement and any annual leave that by agreement they take at that point (modified for each different situation) but please ensure that you follow any processes set out in employment agreements or your office manual as well as those below.

1. After an employee has been off sick for three consecutive days (not necessarily working days) you can require them to produce a medical certificate at their cost.
2. The certificate should state when they are expected to be able to return to work (fully or partially).
3. If the return to work is partial then the certificate should state what types of duties they should be fit to perform.
4. You need to consider whether you can cover the period of expected illness with current staff or a temp, and the economics of doing so. You may be able to get by with a temp but the costs may be prohibitive or the temp may not be able to perform all tasks. Also consider the pressure that may be put on the other staff having to pick up extra tasks.
5. If you decide you need to put a time limit on a return to work you need to write to the employee and specify when they need to be able to return to fulltime work. You may also want to specify that they be making sufficient progress by a certain date (perhaps so many hours per day, or certain duties). You will also need to specify a requirement for their medical practitioner to report on progress at regular intervals.
6. You need to follow up at the review point with a notice requiring them to be fully fit to resume work by a set date. You also need to require a certificate from their doctor that they consider that the employee is (or will be by a certain date) fully fit to resume their duties.
7. You also need to tell them that, if they are not able to resume full duties, you will have to make a decision on their continued employment. We suggest you ask them to provide you with any information they wish you take into account should it become necessary to make a decision about their job.
8. If they advise that they are unfit to resume work or they fail to attend work by the due date then you need to consider whether you terminate their employment.
9. If you decide to terminate their employment you need to give them notice. The length of notice will be that in their agreement. You also need to

consider whether you will make any payment on termination (as a goodwill gesture).

10. You do not have to go through a long drawn out process and the time frames you set really depend on how much leeway you are willing to give for the employee to recover. This will probably vary from employee to employee and be guided by how much they offer to the company by way of skills together with any loyalty they have generated by long and valued service.

We assist many employers with getting the process right to minimise the distress all parties feel and to get your business back on track.

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