

# **ELCAP ATTENDANCE AT WORK POLICY & PROCEDURE**

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## **POLICY STATEMENT**

In order to deliver the best quality service to the people we support ELCAP will only recruit people who can provide a regular and effective service. All staff have a personal responsibility to ensure that they are clear about ELCAP's expectations of attendance at work. Staff should ensure they make every effort to maintain their fitness and availability for work. We will support staff to return to work but, if a member of staff is unable to provide a regular and effective service a possible outcome is to end his or her contract.

### **1. INTRODUCTION**

ELCAP is committed to maintaining low levels of absence to allow the planning and delivery of a quality service. The aim is to achieve sickness levels at or below 4% by setting minimum attendance standards. Low attendance levels create problems in service provision. It also increases costs, can reduce the quality of service because of stresses placed on staff covering absences and can have negative effects on staff morale.

Managers will monitor attendance and investigate all levels of absence at an early stage. Staff are expected to make every effort to attend work on a regular basis.

This procedure sets out a framework for staff to work within and clarifies expectations of staff attendance at work. It aims to ensure fair and consistent treatment of all staff when absent.

### **2. THE LEGAL POSITION**

Whatever kind of health problem results in a poor absence record and no matter how genuine the absence may be, there comes a time when ELCAP's need for a member of staff (MOS) to attend work regularly will be greater than the need to guarantee continuous employment. Whilst the emphasis will be on helping

staff to maintain good health and satisfactory levels of attendance, the law allows employers to end employment for reasons of non-attendance provided a fair procedure is followed. ELCAP will always be mindful of any requirements placed upon us under the Disability Discrimination Act 1995.

### **3. RECRUITMENT**

When applying for posts candidates referees are asked to provide information about any recent sickness absence. Candidates must be able to meet the minimum standard of attendance levels (50 points or less over the last 12 months) to be offered a job. Before a candidate is offered a position, occupational health clearance must be given. In cases where a MOS has not disclosed a previous health problem, this could result in dismissal on the grounds of an act of deception rather than the health problem itself.

### **4. DEVELOPMENT**

When applying for any development opportunity, a candidate will be asked to evidence that they have met a suitable standard of attendance. Only candidates with suitable attendance records will be offered development opportunities.

### **5. NOTIFICATION OF SICKNESS ABSENCE**

It is the manager's responsibility to ensure that all new staff are aware of the reporting procedures when absent from work. These are detailed in the "Procedure for Staff Absence including sick leave" and should be covered at induction and then at annual training days. Staff have a personal responsibility to ensure that they are clear about ELCAP's expectation of attendance at work. Failure to follow these procedures can lead to non-payment of sick pay and disciplinary action.

Before returning from any period of absence the MOS should contact their line manager. The manager may wish to arrange a "Return to Work Meeting" if the MOS has had frequent absences. An account of that meeting will be recorded on a "Return to Work Meeting Form" and forwarded to the Human Resources (HR) Department.

### **6. SHORT TERM SICKNESS**

A member of staff may, on occasion, be off work for short spells of absence. The problem arises where their level of absenteeism

becomes unsatisfactory. Short term sickness is any absence up to four weeks.

Where attendance records demonstrate that a MOS's absence rates are unsatisfactory, the line manager should meet the staff member to determine the reasons for the absence. Minimum attendance standards have been developed and are designed to encourage staff to meet appropriate patterns of attendance. This consists of three stages to which different standards of attendance apply. The stages are progressive and are intended to explain the standards that need to be achieved and help staff maintain appropriate attendance patterns.

When shown the record of absence and previous absences many staff are genuinely surprised and a friendly word can, on occasion, achieve a genuine change for the better. Therefore, if the manager is aware that a person is about to reach the first stage warning level, it might help to alert the member of staff to their attendance level.

**Stage 1:** when a MOS's attendance first becomes unsatisfactory the MOS will meet with their line manager to determine the reasons for this. A First Stage Warning will be given if the attendance is falling short of the required standards (see page 5). The approach should be handled sensitively. In such circumstances the manager should show the MOS his/her absence record. The line manager should always ask the MOS for an explanation of the absence(s). Any mitigating factors (including the existence of a disability) should be taken into consideration and treated with sensitivity. If the attendance is not acceptable a First Stage Warning will be given and confirmed in writing. It will also state how much the Bradford Factor score exceeds the minimum standard and state what the individual's score is at the date of the warning being given. (See page 5)

**Stage 2:** if a MOS who has been given a First Stage Warning fails to make the required improvements he/she will be called to a formal meeting with the line manager. The purpose of the meeting is to warn the MOS that the attendance is unsatisfactory and that he/she could be facing dismissal in the longer term if an acceptable standard of attendance is not achieved (see page 5). The line manager should always ask the MOS for an explanation of the absence(s) and for any mitigating factors. The line

manager will offer to refer the MOS to Occupational Health. At this meeting the MOS may be represented by a union representative or another MOS if they wish. If the explanation is not acceptable, a Second Stage Warning should be confirmed in writing and state that if there is insufficient improvement in reaching and maintaining an acceptable standard he/she is liable to be dismissed. Be specific and state the improvement required.

**Stage 3:** if after a Second Stage Warning, there is insufficient improvement in the MOS's attendance and the line manager considers that dismissal may be appropriate, the MOS will be informed of this in writing by their line manager giving five working days notice to attend a panel meeting. The panel will normally consist of the line manager and the Human Resources Manager (dependent on post).

The panel will be given a full record of the absences and warnings from the line manager and a copy of any occupational health report(s) available. The MOS will be given the opportunity at the meeting to put forward reasons why he/she should not be dismissed. The MOS has the right to be represented by a union representative or another MOS if they wish.

### **Appeals against dismissal**

If a MOS wishes to appeal against dismissal he/she must write to the Director/Board Member (as applicable) within ten working days of the written notification to dismiss. A hearing will be arranged normally within two weeks of receiving the appeal notice but no later than four weeks. A MOS can choose to be represented by a union representative or another MOS if they wish.

The appeal will consider the case and if new medical evidence or mitigating information comes to light at the appeal, the meeting may be adjourned to seek further advice. This may include further advice from the Occupational Health Service.

A MOS will normally be told the outcome of the appeal, in writing, within ten working days.

In the event of a successful appeal and subsequent reinstatement, continuity of employment and payment will be preserved.

## ELCAP's Minimum Standards Probationary Staff

The six month probationary period includes constructively assessing a MOS's attendance at work. If there is cause for concern regarding sickness absence, the MOS should be made aware of this as early as possible, by the manager, and given every opportunity to improve.

No MOS who is on probation should have their probation period confirmed if they fail to meet the minimum attendance whilst on probation.

<b>Minimum standard of attendance</b>	
First 6 months	First 6 months: <b>Bradford Factor score of over 25,</b> <i>e.g. 1 three day absence = 1x1x3 = 3</i> <i>1 four day absence = 1x1x4 = 4</i> <i>2 absences, 3 &amp; 4 days = 2x2x7 = 28</i> <i>1 seven days absence = 1x1x7 = 7</i> <i>2 absences of 3 days = 2 x2x6 =24</i>
Next 2 months	Next 2 months: <b>Bradford Factor score of 2</b> <i>e.g. 1 one day absence = 1x1x1 = 1</i> <i>1 two day absence = 1x1x2 = 2</i>
Next 2 months	Next 2 months: <b>Bradford Factor score of 2</b> <i>e.g. see examples in Stage 2</i>

No decision to dismiss should be made without consultation with the HR Manager.

## Other Staff

All staff are required to maintain a high standard of attendance and formal action may be taken if a MOS falls into the under noted stages.

Minimum standard of attendance	
First 12 months: Stage 1	<p><b>Bradford Factor score of over 85</b></p> <p><i>e.g. 3 three day absences = <math>3 \times 3 \times 9 = 81</math></i>  <i>1 fifteen day absence = <math>1 \times 1 \times 15 = 15</math></i>  <i>3 one week absences = <math>3 \times 3 \times 15 = 135</math></i>  <i>6 one day absences = <math>6 \times 6 \times 6 = 216</math></i></p>
Next 6 months: Stage 2	<p><b>Bradford Factor score of 10</b></p> <p><i>e.g. 1 two day absence = <math>1 \times 1 \times 2 = 2</math></i>  <i>1 ten day absence = <math>1 \times 1 \times 10 = 10</math></i>  <i>2 five day absences = <math>2 \times 2 \times 10 = 40</math></i></p>
Next 6 months: Stage 3	<p><b>Bradford Factor score of 10</b></p> <p><i>see examples in Stage 2</i></p>

If a MOS is regularly absent, on their return to work a 'Return to Work Meeting' between the line manager and MOS will be considered. This is an opportunity for the line manager to reflect concern about the MOS's well being and, if necessary, to clarify the cause of the absence. It is the staff member's responsibility to ensure that he/she attends work and seeks ways of improving their attendance.

## Trigger Points

ELCAP is able to measure the 'frequency' and 'duration' of your absence by the Bradford Factor score. It measures the irregularity of attendance and is calculated by multiplying  $F \times F \times D$  to arrive at a number of points. F is the number of absences and D is the total number of days absent. Therefore, if the MOS had been off for ten days, their scores would vary massively depending on how this had been accrued.

MOS number 1. with one absence of ten days has 10 points  
( $1 \times 1 \times 10$ )

MOS number 2. with five absences of two days each has 250 points (5 x 5 x 10).

MOS number 3. with ten absences of one day each has 1,000 points (10 x 10 x 10).

This helps to take into account, for example, someone with an excellent attendance record, who may have one absence of ten days due to an operation, not automatically triggering the first formal warning stage.

If, you have a lot of short term absences, then this will give you a high Bradford score. Every MOS should aim for full attendance but if not achievable, a Bradford Factor score of under 85 in twelve months.

The Bradford factor monitors short term sickness. If a MOS moves from short term to long term sickness, this is not included in the Bradford Factor. The Bradford factor is usually calculated over a 12month or 6 month period, this period will need to be calculated either side of any long term sickness.

e.g.

*1 one week, 1 two day absence in 8 months*

*3 months long term sick*

*1 three day absence in 4 months*

*Bradford factor =  $3 \times 3 \times 12 = 108$*

When the staff member returns to work after a period of long term sickness, any previous warnings about attendance will remain active on their personnel file. A warning about attendance will stand for 6 months and will be extended by any period of long term sickness.

### **Referral to Occupational Health**

If a MOS is absent from work due to a stress related illness a referral to the Occupational Health Service could be carried out within the first two weeks of absence. This allows the MOS and manager to get clear advice and support in assisting the member of staff back to work.

Otherwise, staff will be referred to Occupational Health after 30 days of absence. Staff cannot be required to attend a meeting with the Occupational Health Doctor. However, staff need to realise that ELCAP will be forced to make a decision about their fitness to work without medical advice if they do not attend. The staff

member will be expected to attend their Occupational Health appointment and will be given at least one week's notice of their appointment. If the member of staff does not attend this meeting then ELCAP will incur a cancellation fee. Only in exceptional circumstances will ELCAP offer the staff member a second appointment if the first appointment is missed.

## **7. LONG TERM SICKNESS**

Line managers should adopt a sympathetic and understanding approach at all times when dealing with staff on long term sickness, i.e. any absences over four weeks. In all cases, as with short term absences, managers will be mindful of staff who have a disability. It is essential that the line manager takes a high profile approach to the management of long term sickness absence with the staff member.

### After 4 weeks

The line manager or other appropriate manager should contact the MOS in order to be informed of her/his progress. The line manager should also contact the HR Manager or their line manager with regard to a referral to the Occupational Health. At the same time the MOS should be contacted to ask for their consent in referring them to the Occupational Health in the interest of their health. The MOS will not be pressurised to return to work as the Occupational Health doctor will indicate the MOS's ability to return or not.

When an absence is likely to continue for some time, a manager shall arrange to meet with the MOS once they have received an occupational health report or when an occupational health appointment was declined or missed. The manager should be accompanied by the HR Manager. The MOS can be accompanied by a Trade Union official or another member of staff. The purpose of this meeting is to discuss the MOS's current state of health; the likely duration of the sickness absence and the staff member's expectations concerning her/his future fitness to return to work. Consideration will always be given to accommodating staff, by adjusting working arrangements or hours of work, where practicable. If the staff member is unwilling to have a visit to their home then a neutral venue should be suggested. Following the meeting the manager will confirm in writing to the MOS the content of the meeting.

### Return to Work

After a long period of sickness a member of staff may require a phased return to work. In most circumstances, appropriate medical advice should be sought from Occupational Health. A phased return may be agreed for a limited period as part of a staged approach to achieving full duties. This normally lasts from four to six weeks. Such cases should always be discussed with, and agreed by the HR Manager. For Service Delivery staff this will also be agreed with the Registered Manager.

## **8. COUNSELLING SERVICES**

ELCAP operate a confidential counselling service to staff on work related issues. Staff should discuss with their manager or the H.R. Manager whether counselling can be made available in order to help them deal with issues which might otherwise prevent them attending work on a regular basis.

## **9. HOLIDAYS**

A MOS who is regarded as being on annual leave during sickness absence will not be entitled to have those days reimbursed unless a doctor's certificate is submitted to their manager. Sick pay will continue when a public holiday falls during such sickness absence. No substitute public or extra statutory holiday will be given. Where a MOS has exhausted sickness allowance entitlement, no payment should be made in respect of a public holiday occurring during the period of absence. Staff who are on long term sickness absence and who are considering taking a holiday must consult their manager first in order to ascertain if this is appropriate. H.R. advice may be helpful. Staff who have been on sickness absence will receive statutory annual leave entitlement for that period of absence, but are not entitled to public holidays which have happened during the period of sickness absence. Statutory annual leave is **28 days per annum for a full time employee**.

## **10. Termination of Employment/Retiral**

It is often the understanding of staff that they cannot be dismissed from work because of sickness absence when they have a medical certificate to support the absence.

This is a misunderstanding and ill health can constitute a reason for dismissal where a) the employer has investigated the individual circumstances and b) consulted with the MOS and c) the decision is reasonable in the circumstances.

Each individual case is different and line managers must adhere to the following principles:

- Each individual case must be investigated thoroughly and have accurate supporting documentation.
- The MOS must be consulted with regard to their sickness absence record and have representation if desired.
- Where possible and with the MOS' agreement independent advice must be obtained from Occupational Health to determine the MOS's suitability to continue work.
- Warnings of the outcome must be explained to the MOS if there is no improvement in attendance.
- Time limits must be set to review each situation.
- The impact of the absence on existing work demands should be assessed.
- Consultation with the HR Manager

In cases of ill health retirement the HR Department can advise on whether the MOS is in the Pension Scheme and what instructions need to be followed.

## **11. POST ACCIDENT PROCEDURES**

A referral may be made by the manager to occupational health when an accident occurs at work and the MOS is injured and off work. Absence in respect of normal sickness is entirely separate from absences through industrial disease or injury arising out of or in the course of employment. Periods of absence in respect of industrial injury will be included in the total sickness period when determining eligibility to sickness pay. An industrial injury will only qualify as such when the appropriate incident form has been completed and the subsequent investigation by the manager find the facts to be accurate. Please also refer to the Health and Safety Pack for guidelines in completing the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) form.

## **12. DENTAL, MEDICAL AND HOSPITAL APPOINTMENTS**

A MOS who is required to attend a dental, doctor or medical appointment should try and arrange this outwith their normal working hours. Where the appointment is an emergency and therefore cannot be arranged outwith the working hours the MOS

must inform their line manager immediately that they will not be at work. On return to work an appointment card must be shown to the line manager. ***Time off will only be paid for emergencies.***

### **13. IN SUMMARY**

Where having monitored sickness absence of a MOS there is cause for concern:

- Investigate thoroughly and ensure a fair review of the absence has taken place.
- Give the MOS the opportunity to be accompanied by a recognised trade union representative or work colleague at Stages Two and Three of the formal stages.
- Consult the MOS at all stages.
- Seek advice from occupational health.
- Set time limits for reviewing the position and ensure reviews take place.
- Explain the possible outcome if there is no return to work within a specified time scale or if there is no improvement in attendance record.
- Consider the requirements of the Disability Discrimination Act.
- Consider whether there is any alternative to dismissal.

Keep full notes of discussions/meetings and copies of all correspondence.

**Advice:** Managers should seek advice/support at any stage of the procedure from the HR Manager who will be pleased to assist.

## APPENDIX 1

### STATUTORY AND OCCUPATIONAL SICKNESS ENTITLEMENT

Occupational sickness entitlement is pay paid by ELCAP to staff when they are off sick. This depends on how many years of service the member of staff (MOS) has worked within ELCAP.

The table below describes the entitlement to occupational sick pay:

Occupational sick pay only starts on the fourth day of any absence i.e. there is no occupational pay on day 1 to day 3.

Less than 1 year	-	No full pay
Less than 1 year	-	No half pay
1 year and under 3 years	-	5 weeks full pay 5 weeks half pay
3 years and under 5 years	-	10 weeks full pay 10 weeks half pay
5 years and over	-	17 weeks full pay 17 weeks half pay

An extension of sick pay (in exceptional circumstances) regardless of length of service may be offered to staff. This will be at the discretion of the Director.

Generally, occupational sick pay will be more than SSP and will include any SSP. The higher of occupational sick pay or Statutory Sick Pay (SSP) will be paid to the staff member.

Occupational sick pay is calculated over a 12 month period and the entitlement above is the maximum which can be paid in any 12 month period. This means that any occupational sick pay will be

based on the staff members entitlement based on service (as listed above) less any occupational sick pay already used in the last 12 months.

**Statutory Pay**

Accurate records are required to enable the Payroll Administrator to calculate Statutory Sick Pay (SSP) for staff who are absent due to sickness. All staff are entitled to 28 weeks SSP if their average weekly earnings are above the level at which National Insurance contributions are payable.

A self certificate or “Fit Note” must be completed by a staff member and sent to their line manager (for forwarding to the Payroll Administrator) for all absences. No occupational sick pay or SSP can be processed or paid without this paperwork.