

# Managing sickness and absence – policy and procedure

## 1. Introduction

Sustain treats the health and wellbeing of all staff as a very high priority. The aim of this policy is to set down Sustain’s approach in managing sickness in the workplace, and to offer guidance to Line Managers. The following procedure is designed to be a fair way of dealing with both frequent periods of short-term absence as well as long-term absence. It provides a standard that ensures that problems attending work are managed in an equitable, compassionate and consistent way, whilst enabling flexibility where needed.

There are other Sustain policies that are relevant to maintaining good health and wellbeing, and managing periods when people need flexibility, to work remotely or have time off. These are in the Staff Handbook on the Sustain intranet here: [www.sustainweb.org/intranet/staff\\_employment\\_information/](http://www.sustainweb.org/intranet/staff_employment_information/) and include, for example, policies and guidance on: mental health and wellbeing; menopause; parental and caring policies; time off in lieu; flexible working and working from home.

## 2. Key principles

Sustain’s absence policy is based on the following key principles, which we will apply compassionately and proportionally, with due regard for individual circumstances:

- 2.1 As a responsible employer, Sustain undertakes to provide payments to employees who are unable to attend work due to sickness subject to the following:
  - While receiving sick pay (including SSP) employees are not allowed to undertake any form of paid alternative employment and/or self-employment without prior consultation. Any breach of this rule will be regarded as gross misconduct, which could result in dismissal.
  - Sustain reserves the right to withhold sick pay in circumstances where there is sufficient reason to doubt the validity of an employee’s sickness absence claim or the employee has not produced the relevant sickness certificate.
  - If substantial sickness leave is taken during the probationary period of service, Sustain may extend the probationary period proportionately.
- 2.1 Regular and continuous attendance is a contractual requirement for all staff. Sustain asks that each employee takes responsibility for achieving and maintaining good attendance, whether working at the office, remotely or from home. We trust everyone to treat Sustain and their colleagues fairly.
- 2.2 Sustain will support employees who have genuine grounds for absence for whatever reason, and in a supportive and compassionate way. This support could include:
  - ‘Special Leave’ for necessary absences which may not be caused by sickness (e.g. appointments for dental, doctor/hospital appointments, etc.) In these circumstances, employees are encouraged to try and take this ‘special leave’ at a time that minimises disruption to their work and the work of others.
  - ‘Disability Leave’ – a period of leave taken by an individual for a reason related to their disability, defined under the Equality Act 2010 as “any physical or mental impairment with a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities”.
  - A flexible approach to the taking of annual leave.
  - Rehabilitation programmes in cases of long-term sickness, absence or disability.

- 2.5 Sustain may consider a referral to an Occupational Health advisor, or other appropriate professional support where appropriate, to:
- Help identify the nature of the employee's illness.
  - Advise the employee, Line Manager and Sustain on the best ways to help improve and maintain the employee's health and well-being.
- 2.6 Sustain may use disciplinary procedures if an explanation for absence and absence notification is not forthcoming and judged to be unsatisfactory.
- 2.7 Sustain will respect the confidentiality of all information relating to an employee's sickness. This policy will be implemented in line with all data protection legislation and the Access to Medical Records Act 1988. This includes the following rights for employees:
- The right to refuse to consent to the employer applying for a medical report.
  - If the employee does consent, the right for them to see the report first.
  - Once the employee has the report, the right to refuse to allow it to be passed to the employer.

### **3. Notification procedure for reporting sickness**

Any member of staff unable to perform their normal daily duties must inform their Line Manager as soon as possible, usually no later than the expected start time. Communication should be by telephone or email, and could be from the employee who is taking sick leave, or from a friend or family member on their behalf. The sickness absence must also be logged on Sustain's CMS dashboard system by the Line Manager.

An employee may not always feel able to discuss their medical problems with their Line Manager. Managers will be sensitive to individual concerns and make alternative arrangements, where appropriate. For example, an employee may prefer to discuss health matters with a person of the same gender, sexual orientation or other aspect(s) of their identity, or known to have experience or sympathy with a particular cultural background, condition or circumstance. This alternative person should be a senior member of the Sustain staff team, they should have agreed to this arrangement, and know what to do and who to report updates and any concerns to, and what support is available to enable them to fulfil this role.

### **4. Certification required for sickness**

It is important for the employee and/or alternative point of contact to keep the Line Manager informed and updated during all periods of sickness. This is an expectation, and especially important where alternative arrangements or extra cover is required, to enable work to be rescheduled, changed, maintained or alternative arrangements made.

For sickness absence up to seven days, self-certification is required in the form of the employee supplying information about the timing and reasons for their sickness absence, to be recorded using Sustain's CMS Dashboard Form.

Absences lasting over seven days require evidence of the need for sickness absence, in the form of a GP Statement of Fitness to Work Certificate (Fit Note) or hospital medical certificate in addition to continued recording of sickness absence, and the reasons for this, using Sustain's CMS Dashboard. A 'Fit Note' can be provided in person or via email. As from July 2022, registered nurses, occupational therapists, pharmacists and physiotherapists (as well as GPs and Doctors) may also provide a Statement of Fitness to Work Certificate (Fit Notes) after they assess a patient's fitness for work.

All GP Statements of Fitness to Work certification and self-certification should be provided promptly to the Line Manager. If this information, evidence or paperwork is not provided, and if there is not a satisfactory

reason for delay, Sustain reserves the right to withhold payment of sick pay. Sustain will use this right only in very limited and justifiable circumstances.

## 5. Return to work discussions

Line Managers will discuss absences with employees on return to work (see Appendix) to establish:

- The reason for, and cause of absence
- Anything the Line Manager, colleagues and/or Sustain can do to help (see 'reasonable adjustments')
- That the employee is fit to work

A more formal review will be triggered by:

- Frequent short-term absence
- Long-term absence

Employees absent from work due to ill health for longer than seven days or returning to work with a 'may be fit for work' GP statement should have a meeting (preferably in-person) with their Line Manager on their return to ensure that they are fit to resume work, and where appropriate to give consideration to a phased return and/or amended responsibilities and/or adjustments that may be needed.

### Reasonable adjustments

Sustain will make reasonable adjustments to ensure anyone with disabilities, or physical or mental health conditions is not substantially disadvantaged when doing their jobs. The following indicative list are not contractual entitlements, but provided for illustrative purposes to enable helpful conversations between the employer and the employee. These could include, for example:

- Doing things another way, such as allowing someone have a designated desk instead of hot-desking.
- Making physical changes to the workplace, like installing a ramp for a wheelchair user or an audio-visual fire alarm for a deaf person.
- Taking a compassionate and flexible approach to mental health and episodes of mental illness (see Sustain's separate policies and guidance on mental health).
- Taking a compassionate and flexible approach during life changes, such as menopause (see Sustain's separate policy and guidance on menopause).
- Arranging for a person to be able to work somewhere that is accessible for a wheelchair user.
- Making equipment available, for instance providing a standing desk for someone with back problems.
- Helping employees who become disabled to make a phased return to work, including flexible hours or part-time working.

## 6. Periods of short-term absence

- 6.1 Once the level of absence reaches three significant episodes of sickness within three months the Line Manager, Head of HR and Operations or Head of Finance will ask the employee to attend a meeting. The purpose of the meeting will be to explore why the employee has such a frequent number of short-term absences from work due to illness, how long that this is likely to continue and what if anything can be done to assist an improvement in attendance. At the meeting the Sustain representative will outline the effects high absence has on the employee's team and Sustain as a whole. The Line Manager and another senior member of staff should be present and notes should be kept.
- 6.2 Following the meeting, Sustain will write to the employee stating what action the organisation intends to take. This may include, for example:
  - Accepting that there is a valid and justifiable reason for the absence and therefore accepting why the level of absence has occurred over the relevant period.

- Offering a redeployment, reasonable adjustments, change of hours or change of working conditions to accommodate the level of absence.
  - Requesting a medical report, and the possibility of disciplinary action.
  - Disciplinary action.
- 6.1 Where it is deemed necessary to request a medical report the employer will request for the staff member to be examined by the employee's GP or consultant; or a doctor or Occupational Health professional nominated by Sustain (at the expense of Sustain, where there is a financial cost). The employee has the right to refuse to consent to Sustain applying for a medical report. Where consent is given, and upon completion of such a report, the employee has the right to see the report first and either to agree for it to be passed on to the employer, or to refuse to let it be passed on to the employer. Where Sustain is able to see a medical report, where appropriate, Sustain will invite the staff member to attend a meeting to discuss the contents of the report. In some instances it may be appropriate to obtain more than one report.
- 6.2 The right of employees to refuse a medical assessment does not usually apply to one-off reports prepared by Occupational Health specialists because they will be prepared by someone who is not responsible for regular clinical care under the definition. In the event that the employee does not attend an Occupational Health assessment, or chooses to withhold consent for a medical report to be released, the employer has the right to make a decision without relevant medical information, which could be to the detriment of the employee.
- 6.3 Where disciplinary action is viewed as the next step, a letter will be sent to the employee requesting attendance at a disciplinary consultation meeting. The employee has the right not to attend. Where they do agree to attend, the employee can be accompanied to any such formal meeting by another person or by two other people. This could be, for example, a colleague; advocate; translator or BSL signer of their choice (for which Sustain will pay reasonable costs); family member; carer; or Trade Union representative.

## 7. Continuous long-term absence

- 7.1 Once an employee is absent from work for four weeks continuously, Sustain will write to the employee requesting that they attend a meeting. The purpose of the meeting will be to find out why the person has been absent, how long they think this will continue, the likelihood of a return to work, and what if anything can be done to assist a return to work. A senior representative of Sustain and the Line Manager will be present at this meeting and notes should be kept.
- 7.2 Following the meeting, Sustain will write to the employee stating what action Sustain intends to take. This may include, for example;
- Accepting that this will be a long-term sickness.
  - Offering a redeployment, reasonable adjustments or change in hours or working conditions to assist with a return to work.
  - A request for a medical report and the possibility of disciplinary action.
  - Disciplinary action.
- 7.3 Where long-term sickness is accepted, the situation will be monitored, and follow-up meetings will be held where absence continues and it is appropriate to do so. The purpose of these meetings is to review any support that is being offered to the employee to ensure it is still appropriate.
- 7.4 Where it is deemed necessary to request a medical report the employer will request for the staff member to be examined by the employee's GP or consultant; or a doctor or other suitably qualified medical professional nominated by Sustain (at the expense of Sustain, where there is a financial cost).

The employee has the right to refuse to consent to Sustain applying for a medical report. Where consent is given, and upon completion of such a report, the employee has the right to see the report first and either to agree for it to be passed on to the employer, or to refuse to let it be passed on to the employer. Where Sustain is able to see a medical report, where appropriate, Sustain will invite the staff member to attend a meeting to discuss the contents of the report. In some instances, it may be appropriate to obtain more than one report. The employee can be accompanied to any formal meeting by another person or by two other people. This could be, for example, a colleague; advocate; translator or BSL signer of their choice (for which Sustain will pay reasonable costs); family member; carer; or Trade Union representative.

## **8. Sickness during annual leave**

Where an employee falls sick or is injured while on holiday, the employer will allow the employee to transfer to sick leave and take replacement holiday at a later time. This will be subject to strict conditions as follows:

- The total period of incapacity must be fully certificated by a qualified medical practitioner.
- The employee must contact the employer (by telephone if possible) as soon as he/she knows that there will be a period of incapacity during a holiday.
- The employee must submit a written request no later than 10 days after returning to work setting out how much of the holiday period was affected by sickness and the amount of leave that the employee wishes to take at another time.
- Where the employee is overseas when they fall ill or are injured, evidence must still be produced that the employee was ill by way of either a medical certificate or proof of a claim on an insurance policy for medical treatment received at the overseas location.

Where the employee fulfils all of the above conditions, the employer will grant the employee the same number of days' replacement holiday leave as the number of holiday days lost due to sickness or injury.

If an employee is ill or is injured before the start of a period of planned holiday, the employer will agree to the employee postponing the holiday dates to another mutually agreed time. Any period of sickness absence will then be treated in accordance with the employer's normal policy on sickness absence. The employee must submit a written request to postpone the planned holiday and must be accompanied by a letter from his/her doctor confirming that he/she is unfit, or is still likely to be unfit, to take the holiday.

An employee must request to take any replacement holiday in accordance with the employer's normal holiday policy, and should endeavour to take the replacement holiday in the same holiday year in which it was accrued. However, where an employee has good reason for not being able to do so, the employer will allow the employee to carry that leave forward into the next holiday year. These reasons should be discussed with the person's Line Manager.

Sustain reserves the right to require an employee to take all or part of their replacement holiday on particular days and it is not required to provide the employee with any minimum period of notice to do this, although Sustain will aim to provide reasonable notice wherever possible.

## **9. Absence due to disability or pregnancy**

Absences relating to the disability of an employee or to pregnancy will be kept and treated separately from sickness absence record, in line with good practice and legal obligations for these special circumstances. See the separate policy in the Staff Handbook on maternity leave, which covers sickness during pregnancy.

## **10. Absence due to third-party negligence**

Any salary paid by Sustain in respect of any period of incapacity resulting from negligence of a third party shall be recoverable by Sustain out of any damages that may be awarded against or on behalf of a third party. The sick pay will be regarded as a loan, which would be repaid if and when the employee were to receive compensation for loss of earnings. The employee must keep their Line Manager informed of the progress of any resultant litigation.

## 11. Schedule for sick pay arrangements

During absence for sickness or injury, in addition to Statutory Sick Pay, Sustain may at its absolute discretion – subject to receipt of medical certification for any period more than seven days – make additional payments such that in any rolling 52-week period the employee receives no more than normal salary.

Sustain's contractual (occupational) sick pay scheme	
For all staff with employment contracts	Full pay for three weeks per year; Statutory Sick Pay (SSP) thereafter (see <a href="#">government guidance</a> on SSP)

Sustain also reserves the right to make enhanced payments to long-term absentees on a purely discretionary case-by-case basis, in exceptional circumstances. Decisions on such discretionary payments will relate to the seriousness of the illness, whether it is likely to re-occur and how long it is likely to last.

## 12. Data protection

In the implementation of this policy, Sustain may process personal data and/or special category personal data collected in accordance with its GDPR and data protection policy. Data collected from the point at which this policy is invoked will only inform the organisation for the benefit of implementing this policy. All data is held securely and accessed by, and disclosed to, individuals only for the purposes of this policy. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's GDPR and data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under Sustain's disciplinary procedure.

## 13. Information for internal use

Date of most recent update:	17/07/24		
Reviewer and lead on policy:	Kath Dalmeny, with CBR Solutions		
Approved by (usually Chief Executive):	Kath Dalmeny	Done (date):	17/07/24
Sustain Council of Trustees approval required?	Yes		
At which Council meeting?	July 2024	Done (date):	17/07/24
Is this policy in the list of 'required' policies?	Yes		
For <u>required</u> policies only, updates include (describe the changes in brief list format; keep and add older date to the list of previous updates): <i>Note: For <u>discretionary</u> policies, these updates will be recorded in Sustain Council meeting minutes.</i>	Historical – policy in place historically; replaced by 'extraordinary period' policy during Covid-19. Policy first published in new format as part of HR Healthcheck 2021, adapted from CBR Solutions. template. Updated and reviewed 2022, 2023, 2024		
Filed in Sustain drive (drive and folder names):	Line managers drive / HR policies		
Publish privately on intranet? (include the final part of the file location – the page name not full URL):	<a href="http://www.sustainweb.org/intranet/grievance-and-disciplinary-procedures">www.sustainweb.org/intranet/grievance-and-disciplinary-procedures</a>		
Publish publicly on Sustain website? (include full URL):	No		
Policy adapted from template provided by CBR Solutions:	<a href="http://www.cbrsolutions.org.uk">www.cbrsolutions.org.uk</a>		

## Appendix: Back to work meeting form

We want to support you in coming back to work after a period of absence due to ill health. We offer a 'back to work' meeting to help you to describe your situation and needs, and for us to find out how best to work with you and support you. We will keep the personal information you share with us confidential, and will use it only for the purposes described to you.

This form should be used to record the Back to Work meeting, between the Line Manager and employee, in accordance with Sustain's Managing Sickness and Absence Policy. The interview should usually be held within two days of the individual's return to work and this form should be forwarded to the Head of HR and Operations or Head of Finance at the earliest opportunity. Note: Some of these details – dates, periods and reasons for absence – must also be recorded on Sustain's CMS Dashboard system.

Employee name:	
First date of sickness:	
Date returned to work:	
Total days in this period of absence:	
Reason given for absence:	
Did the employee keep Sustain notified of their absence? If no, or there were difficulties, please explain:	
Is the employee fully recovered?	
Is the employee able to resume normal duties?	
If a GP or other suitably qualified medical professional was consulted, did they provide a fit note, or make recommendations on reasonable adjustments, e.g. a phased return to work, amended duties, altered hours or workplace adaptations? Please give details:	
Does the employee think factors at work may have caused or contributed to their absence? If so, what are these and what action can be taken to support the employee to overcome them?	
Is this absence part of an overall pattern over the past three months, and over the past 12 months? Please provide details:	
Does the employee have a disability, and is this connected with their absence? Please give details:	
Details of any action needed, e.g. temporary working alterations, or other issues:	
Date return to work meeting completed:	

This is a record of your back to work meeting. It will be emailed to the employee, to the Line Manager and to the Head of HR and Operations or Head of Finance. Within one week of receipt, the employee should confirm in writing by email (or letter if more convenient) that you consider that this is a fair and accurate record of what has been shared and agreed, or request any amendments. If you wish to see any amendments, do let us know promptly, otherwise we will assume after a period of one week that this is a fair and accurate record of what has been shared and agreed.