



Swansea University
Prifysgol Abertawe

Ordinance 11.5 - Incapacity on health grounds

Part I – Application and Scope

1. This ordinance shall normally apply only in instances where a member of staff is unable to fulfil the duties of his or her appointment in the University as a result of prolonged or repetitive absence from work, for which the cause is an underlying clinical condition (or combination of conditions) in respect of which there is no remedy and/or no improvement likely within a reasonable time. High levels of short-term sickness absence, or incapacity on health grounds which does not lead to absence from work, shall normally be dealt with under the University's Capability and Performance and/or Conduct Ordinances.
2. Nothing in this ordinance, however, shall preclude the University, where in its absolute discretion it considers it appropriate to do so, from seeking to resolve matters by informal means, or by other processes, rather than through use of this ordinance.

Part II - General provisions

3. This ordinance should be read in conjunction with the University's Absence Management Policy, which deals with constructive approaches to return to work, the Disability Discrimination Act 1995 and long term absence.
4. References to "health grounds" in this ordinance are to physical and/or mental health conditions that have an adverse impact on the capacity of a member of staff to contribute to the University and/or to perform some or all of the duties of the post to which he or she is appointed.
5. Where the University receives medical advice that taking any step or steps under this ordinance entails a risk of exacerbating a medical condition, the appropriate senior officer appointed by the Vice-Chancellor may apply this ordinance with such amendments as he or she consider appropriate with a view to reducing any such risk.

Part III – Prolonged Sickness Absence

6. The line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate will maintain contact with the member of staff concerned at regular intervals. Where appropriate, they may request a meeting or investigation through the Human Resources Directorate and Occupational

Health with the member of staff when the absence extends beyond six weeks, or sooner if appropriate in accordance with the University's Sickness and Absence Management Policy.

7. At any time, the University may require the member of staff to attend a medical examination through the Occupational Health Service or by an appropriately medically qualified person nominated by the Director of Human Resources or a member of the HR Senior Leadership Team so that a medical report can be obtained. The member of staff may also be asked to consent to his or her own doctor providing a report for the University or any such qualified person. The medical reports will be considered by the line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate or an appropriate representative of the Human Resources Directorate, in the context of all other known facts, including the anticipated recovery period and the business needs of the University.
8. Where the medical report intimates that the member of staff should be fit to return to work within a reasonable time, the Occupational Health Service, in conjunction with the line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate , may recommend, where appropriate, a temporary or permanent adjustment, e.g. to duties and responsibilities, working hours, location, or physical/ergonomic aspects of the workstation as this may facilitate an earlier return to work.
9. Where medical reports indicate that the member of staff is unfit to return to his/her post, the line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate, in consultation with the appropriate member of Human Resources and the member of staff concerned, will consider, where appropriate and if possible, a permanent change to working hours, duties and responsibilities or redeployment to a different post. Alternatively, where appropriate, the member of staff may apply for early retirement on the grounds of ill-health in accordance with the regulations of the appropriate Superannuation Scheme.
10. If a return to work is not feasible within a reasonable time, the Director of Human Resources or member of the HR Senior Leadership Team in consultation with the line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate, , having taken into consideration the relevant facts, including for example :-
 - (a) medical reports where available;
 - (b) any evidence relating to the health grounds and the surrounding circumstances considered relevant; and
 - (c) any steps already taken to address the issues, whether formally or informally,shall write to the member of staff, advise him/her that there appear to be grounds to justify the termination of his/her employment on health grounds and request a meeting with the member of staff and the appropriate member of Human Resources. This meeting may, by mutual agreement, be at the member of staff's normal place of work or at another agreed location. If there is medical advice stating a meeting is not appropriate due to the health of the member of staff alternatives should be considered.

11. At the meeting, the member of staff will be invited to respond and raise any factors which he/she wishes to have considered. The conduct of the meeting and any adjournments will be at the discretion of the line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate.
12. The member of staff will receive notification from the line manager or in exceptional circumstances a more senior leader within the Faculty/ Directorate of the decision and the reasons for it in writing and will be notified of the right of appeal under this ordinance.

Part IV – Appeals

13. The member of staff will have the right to appeal against any decision that dismissal should be given on health grounds. The grounds of appeal should be in writing and sent to the Vice-Chancellor's Office. All appeals shall be lodged and conducted in accordance with the University's ordinance for appeals.