

Disability Leave Policy

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Policy control

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DISABILITY LEAVE POLICY

1 Introduction

- 1.1 The purpose of this policy and procedure is to provide disabled employees with reasonable paid time off work for reasons related to their impairment.
- 1.2 This policy and procedure covers all disabled employees and sets out what disability leave is available and the procedures for using it (see section 6).

2 General Principles

- 2.1 Disabled people face discrimination and disadvantage in the workplace and society. The skills and experience of disabled employees are highly valued and GSA is committed to supporting disabled employees by removing access barriers, tackling discrimination that they face, and implementing best employment practice.
- 2.2 GSA is also committed to resolving any issues relating to disabled employees by agreement where possible.
- 2.3 In accordance with the Equality Act 2010 GSA will not discriminate against disabled employees but will consider and accommodate their needs, as far as is reasonably practicable.
- 2.4 In accordance with the Equality Act 2010 GSA will work actively to eliminate discrimination against disabled people, promote positive attitudes to disabled people and encourage disabled people to participate in public life.

3 What is disability leave?

- 3.1 Disability leave is paid time off work for a reason related to someone's disability. It may be for a long or short period of time, and may or may not be pre-planned (see section 6).
- 3.2 The Equality Act 2010 law says that all disabled employees are entitled to 'reasonable adjustments' where the physical working environment or practices place the disabled person at a substantial disadvantage compared with a person who is not disabled. This may include amending a provision, criterion or practice, altering premises, or providing auxiliary aids. It does not include the lowering of competence standards as defined by the Equality Act 2010.

- 3.3 Disability leave is a 'reasonable adjustment' under the Equality Act 2010 and is in accordance with good employment practice as recommended by the Disability Rights Commission. However, not all disabled employees will necessarily need to take disability leave. Disability leave is one of a range of possible reasonable adjustments, which may also include working from home and flexible working as per the Home Working and Flexible Working policies.
- 3.4 Disability leave will not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy, and similar issues. To do so might discriminate against the disabled employee.
- 3.5 Disability Leave entitlement will mirror that of an employee's sick leave entitlement, as outlined in the contract of employment. However with advice from Occupational Health and in consultation with the employee, it may become clear that the employee is not able to return to their previous job. In this case, other reasonable adjustments, including redesigning the job, retraining and redeployment, will be considered. Where no other option is possible consideration will be given to ill health retirement.

4 Disability leave and sick leave

- 4.1 Disability leave is distinct from sick leave, and includes time when an employee is well but absent from work for a disability-related reason.
- 4.2 If an employee is on sick leave and it becomes clear that they now qualify for disability leave, they will be transferred onto disability leave.
- 4.3 If time off work due to ill health is for a reason not disability-related, then it will be recorded as sickness absence.
- 4.4 A high level of sickness absence for an employee may be a result of a disability. This possibility will be investigated and may trigger a change in the person's status to being disabled. Any absences that are disability related will be reclassified as disability leave.

5 Who is entitled to disability leave?

- 5.1 All employees who are disabled using the definition in the Equality Act 2010 are entitled to disability leave.

- 5.2 The Equality Act 2010 defines disability as “a mental or physical impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities”. ‘Long-term’ typically means 12-months or more, and HIV infection, cancer, and multiple sclerosis are included from the point of their diagnosis.
- 5.3 People, who have had a disability in the past but no longer have one, still qualify as disabled under the Equality Act 2010 and are entitled to disability leave for disability related absences (e.g. attending a clinic for preventative treatment).
- 5.4 Disabled employees may choose to inform GSA that they are disabled. While this is not obligatory, it is recommended that they do so to facilitate making reasonable adjustments. This information will be kept confidential.
- 5.5 Disabled employees new to GSA who have declared on their Personal Details Form that they have a disability will be contacted by Human Resources to discuss any appropriate reasonable adjustments to their workplace.

6 Disability leave procedure

- 6.1 The effect of impairment depends on the individual and their circumstances. To accommodate this requires some flexibility, so employees may take planned disability leave or unplanned disability leave.
- 6.2 Where disability leave is needed, agreement must be reached on the approximate number of days and approximate date of the leave. This may not be exact but will help in planning service delivery.
- 6.3 Planned disability leave is agreed in advance. It may be a number of individual days each year that a disabled person needs to take off. Typically this would be for treatment, rehabilitation or assessment related to their disability. It may also be a longer block of time needed for a specific reason, as indicated in 6.4.3.

6.3.1 The procedure for agreeing planned disability leave is as follows:

First stage

The disabled employee will meet with their line manager on a confidential, individual basis and discuss what reasonable adjustments they need, and the effect of their disability on performance objectives. Employees may choose to be accompanied by a colleague.

If agreement cannot be reached then the procedure moves on to the second stage.

Second stage

Further evidence and advice will be sought in preparation for a formal meeting. Information will be sought from other parties to help determine what constitutes a reasonable adjustment in the specific circumstances. This will include some or all of:

- a GP or specialist's report (with the employee's consent)
- a report from Occupational Health (with the employee's consent)
- other information from the employee
- advice from Human Resources
- consultation with a Trade Union representative, if applicable

A formal meeting will then be held that will include the employee, the line manager, a representative from Human Resources, and a representative. All the evidence will be circulated to attendees prior to the meeting.

The following issues should be considered:

- is the employee disabled under the EQUALITY ACT 2010?
- the effectiveness of the proposed adjustment
- the practicability and cost of the proposed adjustment
- the resources of GSA

If agreement still cannot be reached then the employee has the option of utilising the Grievance Policy and Procedure.

6.3.2 Some examples of reasons for planned disability leave include (but are not limited to):

- hospital, doctors, or complementary medicine practitioners appointments
- hospital treatment as an outpatient
- assessment for such conditions as dyslexia
- hearing aid tests
- training with guide or hearing dog
- counselling/therapeutic treatment
- recovery time after blood transfusion or dialysis treatment
- physiotherapy (sessional or residential)

6.3.3 A longer block of disability leave might also be appropriate. This could be so that a newly disabled employee can make changes inside and outside of work; while physical or environmental adjustments are being made to an employees work environment; or if an employee has to undergo a more prolonged period of treatment, rehabilitation or recuperation.

6.3.4 Some examples of longer disability leave include (but are not limited to):

- a period of time off work while reasonable adjustments are made at work;
- an operation, and recuperation and rehabilitation afterwards;

- time while the employee is suffering from depression, stress, or mental illness;
- a phased return to work of period of time off work for a newly disabled employee.

6.4 Unplanned disability leave covers disability-related absences that may previously have been recorded as sick leave. These will be recorded in the same way, but separate from, sickness absence, and clearly identified as disability leave. Individuals requiring unplanned disability leave should follow the same procedure of informing their line manager as outlined in the Attendance Management Policy and Procedure (2.2).

7 Review of planned disability leave

7.1 Where disability leave is agreed, it will be reviewed on an annual basis to assist in planning. These reviews will be supportive, and will not be used to pressure employees into taking less disability leave than they need.

7.2 Staff who become disabled, or whose impairment or circumstances change, may request a review of their disability leave (or other reasonable adjustments) at any time.

8 Other Issues

8.1 If an employee is on disability leave for more than two weeks, their manager will brief them on their return to work of any changes that have occurred while they were off. In addition job advertisements, internal newsletters and similar materials will be sent to them in an accessible format so being on disability leave does not disadvantage them.

8.2 Consultation will take place at a local level about the impact of a member of staff taking disability leave, and if necessary centrally funded backfill will be provided.

8.3 Time spent on disability leave is counted as continuous service for all contractual benefits, including accruing annual leave, sick leave, and pension rights.

8.4 Medical information about employees will be kept strictly confidential unless they agree to disclosure. Any use of such information will conform to Part 4 of the Information Commissioner's Data Protection Act Employment Practices Code (Information about Workers' Health).

8.5 The amount and duration of planned and unplanned disability leave will be recorded when it is actually taken, using the designated forms.

9 Questions or Complaints

9.1 Clarification on the terms or operation of this Policy may be obtained from a

member of the HR Department. Any complaints in relation to the Policy or its operation should be directed to a senior member of the HR Department.

10 Monitoring

10.1 The number and profile of staff invoking right to apply for disability leave will be monitored by the HR Department. The outcomes of the monitoring process will be presented along with other Performance Indicators in a confidential format to relevant committees within GSA including the HR Committee (which has representation from each recognised trade union).