



# National Offender Management Service

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National Offender Management Service

03 January 2017

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## **NOMS ATTENDANCE MANAGEMENT POLICY**

Dear all,

I'm writing following the meeting on 20<sup>th</sup> December 2016 when I met with Trade Union colleagues to discuss the proposed implementation of the new attendance management policy (PSO 8404) on 5<sup>th</sup> January 2017.

I recognise that colleagues have a number of concerns about the implementation of the revised PSO which I will address below, but having carefully considered all the issues raised I have concluded that we will proceed to implement the revised PSO from 5<sup>th</sup> January 2017 as planned. This is necessary to align NOMS with the Ministry of Justice and with wider Civil Service Policy but I want to make clear that in implementing the revised policy we will continue to treat staff properly, fairly and professionally in line with our values.

As I explained to colleagues at the meeting on 20<sup>th</sup> December I am concerned about a number of misconceptions and misunderstandings about the revised policy. In particular I want to reinforce our continuing commitment to promote the health and well-being of our employees and to support colleagues to successfully return to work after illness. It is important that we do address poor attendance issues appropriately but this must not be to the detriment of staff who have suffered genuine illness and need help and support to regain

full health and to return to work – and our guidance to line managers in implementing the revised policy will make this absolutely clear.

In particular I think it is important to note that:

- Trigger Points have been amended to align with wider Civil Service Policy. This means a change from 10 days over 2 spells of absence as a Trigger Point to 8 days and/or 4 spells of absence. However a Trigger Point is simply a point of reference and decisions about what if any action should be taken once a Trigger Point has been reached is for line managers to consider taking account of all individual circumstances.
- Formal warnings are therefore not automatic. A manager's discretion not to issue a warning will still apply under the new policy and guidance will be provided to ensure that this is used fairly and appropriately.
- Specifically it is the case, as now, that staff who are absent as a result of an assault at work will not be subject to attendance warnings even where the Trigger Point has been breached.
- A three stage process which provides warnings on poor attendance prior to dismissal is consistent with other Government Departments and meets good practice guidance.
- The removal of reference to serious underlying medical conditions (SUMC) does not mean that colleagues with chronic or long term illness will suffer detriment. NOMS is the only Civil Service department to have a specific reference to SUMC in policy. The Equality Act 2010 makes clear the responsibilities placed on all employers to support staff with medical conditions that constitute a disability. But equally the guidance to managers will make clear that staff who have long term chronic conditions (such as cancer) should not be subjected to attendance management procedures but should be provided with ongoing help and support.
- Where an absence (closed prior to 5<sup>th</sup> January 2017) has been excluded following confirmation from Occupational Health that the cause of the absence met the criteria of a SUMC, this absence (**not the medical condition**) will continue to be excluded under the new policy if it is still within the look back period (12 month rolling period). The same approach will be adopted for absences related to Disability Related Conditions.

As I've already mentioned our guidance to accompany the revised PSO will reinforce the importance of supporting staff who are suffering from ill health.

There were a number of specific issues raised at the meeting which I address below:

Equality Issues. Concerns were raised with regard to the Equality Impact Assessment for this policy. I accept the concerns raised and I have asked colleagues in the HR Directorate to review and revise the Equality Impact Assessment for this policy and consider comments already received by trade unions.

The current how to guide for managers will also be revised to address your specific concerns around managers' discretion.

Removal of SUMC. NOMS is currently the only government department that uses SUMC and as we have stated previously, the Equality Act 2010 may engage a significant number of cases currently meeting the criteria of SUMC. If this is the case, under the new policy, consideration will be given as to whether a reasonable adjustment should be considered where a possible outcome may be to extend the trigger point.

Concerns about manager capability. Concerns were raised around manager capability and I can confirm that the Attendance & Wellbeing Team are working collaboratively with HR Learning & Development colleagues to examine our learning interventions on attendance management that will be included in the new first line manager's programme and POELT training. The new Civil Service Learning attendance management training product has been reviewed and the Attendance & Wellbeing Team will design a face to face intervention to address the gaps in the Civil Service Learning product to address specific NOMS attendance issues.

Linked absences. There is no formal mechanism within the policy to link absences. However, linking absences may be considered a potential reason for a line manager to use their discretion not to issue a warning under the unsatisfactory attendance procedures where a member of staff has returned to work too early after misjudging their recovery.

3<sup>rd</sup> party claims. I understand the concerns raised in relation to 3<sup>rd</sup> Party claims, but NOMS has no influence on how long these can take to be settled. It is our expectation that a warning is issued and in the event that a third party claim is awarded, the warning may be revoked if the trigger breach would not have occurred without that absence.

Paragraph 2.49. There was some concern about this paragraph and the "expectation" that a warning will be given. I have asked HR colleagues to review and amend this paragraph, taking into account the concerns that were raised.

Timing of the policy implementation. I understand the points raised with regard to the timing of the policy implementation, but NOMS has no choice to implement now to align with the rest of the Ministry of Justice and the wider Civil Service. It has already taken over 18 months to get to this position and NOMS is behind most of the Civil Service in implementing this policy.

A dedicated attendance and wellbeing project team resourced to support the business throughout the implementation of this policy is in place and they have been commissioned to actively support business units to ensure implementation is managed effectively. The attendance and wellbeing team will be working with Governors, Senior Leaders and their management teams throughout 2017 to ensure the new arrangements are properly embedded and applied correctly, fairly and consistently and with a strong focus on wellbeing.

I hope that the clarification I have provided will provide reassurance about how the revised policy will operate and I remain committed to continuing to work with you and Trade Union colleagues to promote improved occupational health across the Agency.

Yours sincerely,



**MICHAEL SPURR**