

THE SICK SENSE



By **Alice Unwin**
Senior Employee
Relations Adviser

FIVE THINGS YOU SHOULD KNOW WHEN MANAGING SICK OR INJURED EMPLOYEES.

1 Managing absenteeism

A sick leave policy will make it easier to manage the absenteeism, or a regular pattern of absence, of individual employees. If an employee does not comply with the policy, the next step could be performance management. The *Fair Work Act 2009* explicitly mentions that employees must give adequate notice as soon as possible for personal leave and that employers can request evidence of absence if necessary.

Introducing a sick leave policy containing additional details will help in more complex situations.

In a sick leave policy you can specify that:

- ▶ employees must call a manager or supervisor (rather than text or email) to notify of their absence;
- ▶ evidence may be requested at particularly suspect times, such as either side of a weekend or public holiday, or for each and every absence; and
- ▶ examples of appropriate forms of evidence, such as a medical certificate from a doctor.

2 Employees on 'restricted duties'

If a doctor signs an employee off as fit to return to work on restricted duties, you must accommodate the request,

where reasonable. Restricted duties can include reduced hours, alternative duties or flexible hours of work.

If there is no reasonable way to accommodate the employee, they may have to take period of personal leave until they are fit to return to work.

3 Poor performing ill or injured employees

You can still performance manage underperformers who are on restricted duties or who have taken personal leave, but it's important to keep the two issues separate. You must ensure the illness or injury is not the reason behind the employee's underperformance.

You should take steps to ensure any disciplinary action is procedurally fair. A common mistake employers make is issuing an employee with a warning while they are on sick leave before they have had an opportunity to respond to their employer's concerns.

4 Termination of employees who are unfit for work

Under the *Fair Work Act*, you must not terminate an employee because they are temporarily absent due to illness or injury. An employee who is on paid personal leave beyond a total of three months in a 12-month period will also

be considered to be on a temporary absence.

If you are considering terminating an employee who has been absent for more than three months you need to ensure they have medical information to demonstrate they are unable to fulfil their role and will continue to be, either indefinitely or for an extended period of time, incapable.

You should also write a business case outlining why you can't continue to hold the role open for the employee and why accommodating them could cause unjustifiable hardship to the business.

5 When in doubt ask an expert

As a CCI member you have access to our Employee Relations Advice Centre which can provide professional support and guidance on issues you may have with sick and injured employees. ■

For information about this and other issues related to managing your employees contact ERAC on (08) 9365 7660 or advice@cciwa.com.