

Healthwatch Oxfordshire Board of Directors

Date of Meeting: 26 th January 2016	Paper No: xx
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Title of Presentation: Business Manager’s Paper

This paper is for	Discussion	<input type="checkbox"/>	Decision	x	Information	<input type="checkbox"/>
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Purpose and Executive Summary (if paper longer than 3 pages):
 This paper informs the Board of the current financial position of the organisation. It presents an update on a possible relocation, the current situation on conversion to a charity and presents the Disciplinary Policy, Grievance Policy and Sickness absence policy for approval.

Financial Implications of Paper:
 The paper sets out the current financial position of the organisation

Action Required:
 The Board is asked to:

- 1) **Note** the second quarter accounts for the period October - December 2015.
- 2) The Board is asked to **note** the update on the conversion to a Charity
- 3) The Board is asked to **note** the update on premises.
- 4) The Board is asked to **approve** the policies as submitted by the HR Group.

Author: Carol Ball

1. Update on Conversion to a Charity

Tessa Hennessy (solicitor) has been engaged to support Healthwatch Oxfordshire with its move towards converting from a Community Interest Company to Charity.

We have been advised that as there is no formal process to convert from a CIC to a Charitable Incorporated Organisation the simplest process for conversion to a Charity would be as follows:

a) The Directors pass a special resolution to convert from a CIC to a charitable company and to amend the articles of association to those of a charitable company with charitable objects. The company would remain a company limited by guarantee with company members/directors. The directors would however become trustees in charity law as well as company directors (and here, also members).

b) Change the name of the company and seek exemption from use of *limited* in the company name (most charities choose not to have limited in their name) - at the moment the company name includes CIC; this will need to be removed. Healthwatch Oxfordshire would be the obvious choice for the new name.

c) Contact the Charity Commission (CC) seeking a statement that in their opinion if the proposed changes take effect the company will be a charity in England and Wales and will not be an exempt charity.

d) Finally, send all the required documents and fee of £10 to the Registrar of Companies. If everything is in order following liaison with the CIC Regulator Companies House will issue a certificate of incorporation on change of name and the company will cease to be a CIC from that date. The company number will be unchanged as the legal entity isn't changing, just its status. This is important in terms of existing lease/licence agreement, contracts of employment, service agreements and so forth.

Next Steps

Tessa Hennessy is working on the new articles including charitable objects based on the Charity Law Association model articles of association. These will be presented to the Board at its workshop in February if not before.

2. Operational costs

To ensure that Healthwatch Oxfordshire provides value for money and operates as efficiently as possible there has been a review of operational costs. One of the most significant expenditures, second only to staffing costs is the premises cost.

The forecast cost for premises to the year 2015/16 is £23,762 and consideration has been given to a potential office move. After viewing alternate premises it is

proposed that the Board will receive a fully costed proposal in time for the January Board meeting, this proposal will be circulated separately and at short notice. This is in part due to further information being required from the potential landlord which is not available at the time of writing this report.

Corporation Tax

Healthwatch England have sought advice from HMRC to see if it possible for any underspend for local Healthwatch to be classified as 'non business activity' and therefore not be liable for corporation tax. HMRC have agreed with Healthwatch England's suggestion that potentially local Healthwatch activity, and therefore any underspend, could be classified as 'non-business activity' and therefore not be subject to corporation tax. However, HMRC have also advised that they are not able to give blanket guidance as each local Healthwatch will be different and will need to seek individual financial advice. Following on from this advice I have written to HMRC and asked if the activity carried out by Healthwatch Oxfordshire can be classified as non -business and therefore not subject to corporation tax. HMRC have responded and following internal advice HMRC have again been contacted for further clarification on Healthwatch Oxfordshire's liability for corporation tax.

Policy Update

The HR Group has undertaken a comprehensive review of the Disciplinary Policy (*appendix 1*) Grievance Policy (*appendix 2*) and the Sickness Absence Policy (*appendix 3*).

The HR Group **recommends** that the Board **approve**

- Disciplinary Policy
- Grievance Policy
- Sickness Absence Policy

DISCIPLINARY POLICY

1. Introduction

The purpose of this policy is to support and promote the values and strategic aims of Healthwatch Oxfordshire (HWO) who expect that all employees will maintain acceptable standards of conduct and attendance at all times and in accordance with the ACAS Code of Practice.

As part of the day to day interaction between manager and employee and through the appraisal process, employees should be made aware of the standard of their conduct and any problems should be highlighted and resolved.

This policy is intended to ensure that:

- Any disciplinary action is taken promptly, fairly and consistently
- Employees will be advised of the basis of the problem and will be given the opportunity to present their side of the case.
- There will be a full investigation of all of the facts.
- The confidentiality of information gathered during this procedure will be maintained and employees are expected to respect this.
- Employees will have the right to be accompanied to any formal meeting.
- Employees who are disciplined will receive a clear explanation of both the decision reached and any actions agreed.
- Employees will have the right to appeal against any formal decision or actions agreed.

This policy will be applied consistently for all employees regardless of race, gender, disability, age, sexual orientation, religion or belief, pregnancy and maternity, gender reassignment or marriage and civil partnership.

2. Disciplinary Rules and Categories of Conduct

It should be understood by all employees that the disciplinary policy may be invoked as a result of:

- Any failure to observe the policies and procedures adopted by Healthwatch Oxfordshire CIC or in any part of the Contract of Employment.
- Any other instance of conduct which HWO believes could only appropriately be dealt with under the disciplinary policy.

Matters involving poor performance will be dealt with in accordance with the Capability procedure.

It is impossible to produce an exhaustive list of all instances of misconduct giving rise to disciplinary action. Generally speaking an employee's conduct which proves to be unacceptable will fall into one of the following categories:

Misconduct; Serious Misconduct; Gross Misconduct

In cases where fraudulent or other serious criminal activity is suspected it will be thoroughly investigated and will be referred to the police when appropriate. If proven, fraud is gross misconduct and would result in dismissal.

3. Conduct outside Employment

Disciplinary proceedings may be invoked where conduct outside of employment seriously impairs an employee's ability to undertake their duties, or the conduct of the employee calls into question their integrity or suitability to carry out their duties, or the conduct of the employee is likely to bring the organisation into disrepute.

The fact that an employee has been charged with an offence should not be regarded as an automatic indication of guilt. Conviction of an offence, however, is sufficient proof that an offence has been committed. If criminal proceedings are ongoing, suspension on full pay could be considered until such times as an informed decision can be taken following an investigation under this policy.

The organisation does not have to wait until the matter has been brought before the courts before proceeding with a disciplinary hearing. Disciplinary action is appropriate, in employment terms, based on the balance of probabilities and not beyond all reasonable doubt as under legal proceedings.

4. Disciplinary Action

Depending upon the circumstances of the case, it may be deemed appropriate to commence a formal process at any stage of the policy. If an employee's first misconduct is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had or are liable to have a serious or harmful impact on the organisation.

Should the need arise to implement disciplinary action then the organisation will follow the policy set out below:

i) First stage

This will normally be a first warning for misconduct if conduct does not meet acceptable standards. This will be in writing and set out the nature of the misconduct and the change in behavior required within a given timescale and the right of appeal. A record of the warning will be kept, but will be disregarded for disciplinary purposes after 6 months.

ii) Final written warning

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve conduct during the period of a prior warning, a final written warning may be given to the employee. This will be following a formal hearing or a second meeting when there has been a failure to improve conduct while a written warning is extant.

The warning will be put in writing and will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will be kept on file but will be disregarded for disciplinary purposes after 12 months subject to achieving and sustaining satisfactory conduct or performance.

iii) Dismissal

If there is further misconduct or the conduct is considered to be gross misconduct, the final step in the policy is dismissal. If, on completion of the investigation and the full disciplinary procedure, the organisation is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

A decision on dismissal will be taken by the Chair or the Vice Chair of the Board and the employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate and the right of appeal.

5. Suspension

In certain circumstances, it may be considered prudent or necessary to suspend an employee on their full terms and conditions pending the conclusion of any investigation and subsequent hearing.

It should be noted that suspension with pay is a neutral act and is only seen as a temporary measure intended to assist a thorough investigation and should not be regarded as any presumption of guilt.

The authority to suspend with pay is vested with the Chair, Vice Chair or the Chair of the HR Group.

An employee who is suspended will not be allowed back into Healthwatch Oxfordshire offices without the prior agreement of a senior employee and this will not be unreasonably withheld, and to ensure confidentiality should not contact other Healthwatch Oxfordshire employees other than someone of their choice to accompany them to a formal meeting.

Any suspension will be reviewed on a weekly basis to ensure that the reason for the suspension is still relevant.

6. Disciplinary Investigations and Hearings

When a matter arises which we consider can be properly dealt with on an informal basis this would be the preferred approach. This is particularly the case when it is considered the matter can be resolved by discussion, training or informal counselling or coaching. However if there is no improvement after a suitable period of time has been allowed or training given, the matter may have to be dealt with formally.

In the event of a matter arising where it is considered necessary to invoke the disciplinary policy, the employee will be informed verbally and notified in writing. An investigation will be instigated to establish the true facts of the case and this

will be done promptly before recollections fade. All employees who may be involved in this investigation will be required to fully cooperate with the procedure.

If, following investigations, it is considered that there is a case to answer then a disciplinary hearing will be arranged as soon as possible. It should be noted that at a formal hearing an employee may be may choose to be accompanied by a colleague, lay or trade union official. A disciplinary hearing will be chaired by a senior member of staff or where necessary a director, not directly involved in the case.

The nature of the disciplinary matter will be explained to an employee. Prior to the hearing, normally a minimum of seven calendar days, the employee will be notified in writing of the date, venue and time of the hearing. They will also receive a copy of any written evidence which will be presented at the hearing.

The investigation manager will normally be at the hearing to present the findings of the investigation. At the hearing the employee will have every opportunity to present their case in full, to call any witnesses they feel appropriate, to present any written evidence and put forward any mitigating circumstances. If new evidence comes to light during the hearing then it may be necessary to suspend the hearing pending further investigation.

If an employee is persistently unable or unwilling to attend a disciplinary hearing without good cause then the hearing may proceed and the panel will make a decision based on the evidence available.

If the matter is considered to be serious misconduct or gross misconduct and therefore dismissal could be a potential outcome, this must be stated in the letter confirming the date of the disciplinary hearing.

7. Right to be accompanied

It is a statutory right for an employee to be accompanied to a formal meeting and every effort will be made to arrange a mutually convenient date for the hearing. However if the companion is not able to attend the proposed hearing, the hearing will be postponed on one occasion only to a time proposed by the employee provided that the alternative time is reasonable and not more than five working days after the date originally proposed.

The companion will be allowed to address the hearing, to put and sum up the employee's case, respond on the employee's behalf to any view expressed at the hearing and to confer with the employee during the hearing. They may not act in a legal capacity, answer questions on behalf of the employee or address the hearing if the employee does not wish it or prevent Healthwatch Oxfordshire from explaining its case.

8. Overlapping Disciplinary and Grievance procedures

Where an employee wishes to raise a grievance during a disciplinary process and that grievance relates to the disciplinary case, the employee will be given the opportunity to bring their concerns when submitting their response or when

appealing about any sanction imposed. It will not be treated as a separate grievance and the disciplinary process will not be delayed.

If at the end of the process, the employee considers that they still have a grievance relating to the case that has not been addressed they will be allowed to raise a separate grievance. If this grievance is subsequently upheld, any disciplinary action taken will be reviewed in light of that decision.

If the employee has a grievance unrelated to the disciplinary case, this will normally be dealt with concurrently using the grievance procedure.

9. Outcome

After the presentation of the evidence and an adjournment, the hearing will be reconvened to inform the employee of the outcome and any actions agreed. In the case of warnings, the chair of the hearing will outline the improvements expected, what training and support may be provided and how long the warning will remain on file and the consequences of a failure to improve.

The right to appeal against the actions agreed will be explained. A letter of confirmation will also be sent to the employee, normally within seven calendar days of the hearing.

10. Disciplinary Appeals Procedure

All employees have the right to appeal against the findings of a disciplinary hearing or the disciplinary actions agreed. This is to ensure that employees have the opportunity to raise concerns if they consider the disciplinary action taken is wrong or unjust or the process was in some way flawed or biased.

- i) At the end of a disciplinary hearing, the employee will be informed both verbally and in writing of the right to appeal (including the name of the person to whom any appeal should be made).
- ii) If an employee decides to appeal, they must give written Notice of Appeal to the nominated person, stating the reason for the appeal. This must be received within 5 working days of the date of the written confirmation of the earlier decision.
- iii) An appeal hearing will be arranged as quickly as possible. At the appeal hearing, the employee may choose to be accompanied by a colleague, lay or trade union official.
- iv) The appeal hearing will normally be carried out by the Chair or Vice Chair of the Board and a director not previously involved in the case. The decision of the appeal panel will be final.

The conduct of the appeal hearing will normally follow a similar format to the earlier hearing but with the employee going first stating their case for appeal. An appeal panel will not rehear the original case but will review the conduct of the hearing and the actions agreed.

They will have access to the original investigation notes and the notes of the disciplinary hearing.

All records and notes of any investigation, hearing or appeal will be confidential and will be kept in accordance with requirements under the Data Protection Act.

Policy approved by the Board of Directors	
Group responsible for monitoring implementation of the Policy:	HR Group
Review Interval	Three Years
Last Reviewed	11th January 2016

GRIEVANCE PROCEDURE

1. Introduction

It is Healthwatch Oxfordshire's (HWO) policy to provide a framework whereby employees with grievances relating to their employment use the procedure below to seek satisfactory solutions. HWO will undertake to resolve grievances as quickly as possible to the satisfaction of the individual(s) concerned. Where this is not possible, every effort will be made to explain the reasons for the decision.

If employees are not satisfied with the outcome, they have the right to pursue their grievance to the next stage. It is hoped that most grievances will be resolved during the informal discussion. Employees who have raised *grievances* will be treated fairly at all times before, during and after the grievance hearing(s).

This policy applies to all employees of Healthwatch Oxfordshire (HWO) and will be applied consistently for all employees regardless of race, gender, disability, age, sexual orientation, religion or belief, pregnancy and maternity, gender reassignment or marriage and civil partnership

2. Procedure

Informal stage

If an employee has a grievance about their employment it should be discussed informally with their immediate manager. The manager will give a response within five working days. See below for exceptions to this procedure.

Formal stages

Stage 1

If an employee feels that the matter has not been resolved satisfactorily through informal discussions with their immediate manager or they are not satisfied with the manager's response, they may raise the matter, in writing, with Chair of the HR group. This can be either by email or by post c/o the company's registered office and marked confidential.

The employee will receive a formal acknowledgement of their letter within five working days and a meeting will be arranged chaired by a director. Prior to the meeting HWO may carry out such reasonable investigation as necessary so that it can properly deal with the grievance.

The employee, any relevant witnesses and the manager will be asked to attend the meeting. The employee may choose to be accompanied by a colleague, lay or trade union official.

The manager will give a response within five working days of the meeting and will inform the employee of the appeals procedure.

Stage 2

If the matter is not resolved to the employee's satisfaction they have the right to appeal in writing to a director, stating the grounds for their appeal. The employee will receive a response to their appeal letter within seven working days and a meeting will be arranged.

The format of the meeting will be as in Stage 1 except that the Chair of the meeting will be a director not previously involved in the case. The director will give a decision within five working days of the meeting. This decision will be final.

Investigations

The organisation is committed to ensuring that all grievances are investigated fully. This may involve carrying out interviews with the employee concerned and third parties such as witnesses, colleagues and managers, as well as analysing written records and information. The investigation report will be made available to all the parties concerned. The identity of witnesses will be kept confidential where necessary.

Additional Notes

1. A complaint may be raised directly with the a member of the HR sub group if it:
2.
 - a. concerns your immediate manager
 - b. is of too personal or sensitive a nature to raise with your immediate manager.
3. Complaints concerning discrimination, bullying or harassment by an immediate manager may be raised directly with a member of the HR Group. This may be done informally or formally, ie at Stage 2 of the procedure.
4. If the complaint concerns alleged wrongdoing or criminal offence by someone within the organisation, it should be raised immediately with a director, ie at Stage 2 of the procedure. See the Public Interest Disclosure Act 1998 (known as the Whistle-blowers' Act) for details of the additional protection available for protected disclosures.
5. Employees will be given the opportunity to explain their grievance, how it should be resolved, and have the opportunity to respond to all information and evidence produced by the organisation.
6. The grievance procedure should not be used for appeals against disciplinary decisions, as that is the purpose of the disciplinary appeals procedure. If, however, an employee has a complaint against the behaviour of a manager during the course of a disciplinary case, it may raise as a grievance with a more senior manager or a director. The disciplinary procedure may be suspended for a short period if necessary until the grievance can be considered.
7. Employees are encouraged to raise grievances and will not suffer any detriment from doing so. If a grievance is found to be malicious or to have been made in

bad faith, however, the employee will be subject to the organisation's disciplinary procedure.

8. The timescales listed above will be adhered to wherever possible. Where there are good reasons, eg the need for further investigation or the lack of availability of witnesses or companions, each party can request that the other agrees to an extension of the permitted timescale.
9. The organisation reserves the right to seek assistance from external facilitators at any stage in the grievance procedure.
10. Employees will be able to request mediation by an independent third party if this is agreeable to the organisation. Then the grievance process will be suspended whilst mediation is ongoing.
11. If an employee experiences difficulty at any stage of the grievance procedure (eg for a reason related to a disability or because English is not your first language), the employee should discuss the situation with the Director responsible for HR as soon as possible.
12. This procedure is for guidance only and does not form part of employees' contractual rights. The contents may be subject to revision from time to time.

Policy approved by the Board of Directors	
Group responsible for monitoring implementation of the Policy:	HR Group
Review Interval	Three Years
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ABSENCE POLICY

Policy statement

Healthwatch Oxfordshire is committed to improving the health, wellbeing and attendance of all employees and we value the contribution our employees make to our success. So, when any employee is unable to be at work for any reason, we miss that contribution.

This absence policy explains:

- i) What we expect from managers and employees when handling absence
- ii) How we will work to maintain levels of absence to minimum levels

This policy has been written after consultation with the HR Group and staff members and we welcome the continued involvement of employees in implementing this policy.

Key terms

What is 'short-term sickness'?

This would be one off absences or minor absences which occur several times throughout the year. For absences of seven days or less a medical certificate from a GP is not required.

What is 'long-term absence'?

Long-term absence occurs when an employee suffers from a prolonged illness or disability that means that he or she will be away from work for an extended period of more than four weeks.

Unauthorised absence and lateness

These are periods of absence where the employee has not notified the organisation as to the reason for their absence this includes lateness of more than one hour.

Key principles

The organisation's absence policy is based on the following principles:

1. Regular, punctual attendance is an implied term of every employee's contract of employment - we expect each employee to take responsibility for achieving and maintaining good attendance.
2. We will support employees who have genuine grounds for absence for whatever reason. This support includes:
 - 'special leave' for necessary absences not caused by sickness
 - a flexible approach to the taking of annual leave
 - rehabilitation programmes in cases of long-term sickness absence

3. As a responsible employer we undertake to provide payments to employees who are unable to attend work due to sickness (see the Company Sick Pay Policy.)

4. We will consider any advice given by the employee's GP on the 'Statement of Fitness for Work'. If the GP advises that an employee 'may be fit for work' we will discuss with the employee how we can help them get back to work - for example, on flexible hours, or altered duties. This will be supported by an agreed return to work plan which will be reviewed on a regular basis.

5. We may use an occupational health adviser, where appropriate, to:

- help identify the nature of an employee's illness
- advise the employee and their manager on the best way to improve the employee's health and wellbeing.

6. The company's disciplinary procedures may be used if an employee does not comply with the requirements under this policy or where, despite being advised that an improvement in attendance levels is required, the improvement has not materialised or been maintained.

7. We 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.

Notification of absence

If an employee is going to be absent from work they (or their representative if they are unable to by reason of incapacity) should speak to their manager or deputy within an hour of their normal start time.

They should also:

- give a clear indication of the nature of the illness and
- a likely return date

The manager will check with employees if there is any information they need about their current work. If the employee does not contact their manager by the required time the manager will attempt to contact the employee at home.

Evidence of incapacity

Employees should use the company self-certification (*appendix 1*) arrangements for the first seven days absence. Thereafter a 'Statement of Fitness for Work' is required to cover every subsequent day.

If the absence is likely to be protracted, ie more than four weeks continuously, there is a shared responsibility for the Company and the employee to maintain contact at intervals agreed with the employee and their line manager.

Managing attendance and employee turnover

'May be fit for some work'

If the GP advises on the Statement of Fitness for Work that an employee 'may be fit for work' we will discuss with the employee ways of helping them get back to work. This might mean talking about a phased return to work or temporary amended duties.

If it is not possible to provide the support an employee needs to return to work - for example, by making the necessary workplace adjustments - or an employee feels unable to return then the Statement will be used in the same way as if the GP advised that the employee was 'not fit for work'.

Excessive absences

If an employee's absences reach excessive levels, the Organisation may require medical information from their GP and/or a specialist practitioner of HWO's choosing. If the Organisation requires information from a specialist practitioner, HWO will pay for the examination and for any expenses that the employee may incur.

If the Company needs a report from the employees GP, the Company will comply with the Access to Medical Reports Act 1988. However, employees should be aware that refusal to supply relevant medical information, the Organisation may have no choice but to make decisions about a likely return to work based on the information that is available. Therefore, it is in the employee's best interests to disclose medical information.

Return to work discussions

Managers will discuss absences with employees when they return to work to establish:

- the reason for, and cause of absence
- anything the manager or the organisation can do to support
- that the employee is fit to return to work.

If an employee's GP has advised that they 'may be fit for work' the return to work discussion can also be used to agree in detail how their return to work might work best in practice.

A more formal review will be triggered by:

- frequent - that is more than two short-term absences in a three month period, a short term absence is one of two days duration or less.
- long-term absence.

This review will look at any further action required to improve the employee's attendance and wellbeing.

Absence due to disability/maternity

Absences relating to the disability of an employee or to pregnancy will be kept separate from sickness absence records and will comply with relevant legislation.

Absence due to sickness whilst on holiday

If you are sick whilst on holiday the organisation will consider any requests to change arrangements provided a sick certificate/fit note is produced for the period of sickness absence. If taken ill while overseas, the employee must provide a sick certificate either in English or with an English translation. Employees should notify their manager as soon as is reasonably possible. Annual leave cannot be reaccredited without the provision of a medical certificate.

No additional pay will be credited for any sickness occurring on a bank holiday.

Company sick pay scheme

Policy statement

The purpose of this policy is to set out what you can expect from the organisations sick pay scheme if you are absent from work due to sickness. The organisation recognises that its employees are important to its operations and offers an enhanced sick pay scheme.

Key principles

The organisation has in operation an enhanced sick pay scheme which includes statutory sick pay (SSP) at rates applicable at the time of an employee's illness. It should be noted that SSP is not payable of the first three days, however, this will not impact on the employee's payment under the organisations sick pay scheme.

Levels of payment with effect from 1st January 2016

First year of service

- 6 weeks Statutory Sick Pay

Second and subsequent years of service:

- 6 weeks full pay including Statutory Sick Pay
- 6 weeks half pay including Statutory Sick Pay

Employees must follow the organisations Absence Policy when absent from work due to sickness, failure to do so will result in sick pay being paid at SSP levels only.

Sickness pay and holiday absence

If an employee is absent due to sickness whilst on holiday the organisation is unable to pay sick pay and holiday pay for the same period.

Policy approved by the Board of Directors	
Group responsible for monitoring implementation of the Policy:	HR Group
Review Interval	Three Years
Last Reviewed	11th January 2016

SELF-CERTIFICATION FORM	
Private and confidential	
Name	
Address	
PERIOD OF SICKNESS	
Date of 1st day of sickness	
Date fit to resume work	
DETAILS OF SICKNESS OR INJURY	
I was unfit for work for the following reason	
DECLARATION	
I declare that I have not worked during the period of sickness stated above and that the information given is factually correct.	Signature: Date:
Please return this form to your line manager within two days of your return to work	
Managers signature	Date: