

FOI Release
Information released under the Freedom of Information Act

Title: IPO Staff absences

Date of release: 18 November 2014

Information request:

1. How many FTE (full time equivalent) work days of staff absence were there in your department in 2010, 2011, 2012 and 2013?
2. How many of these staff absence days are recorded as being due to a form of either long-term or short-term disability?
3. How many workplace adjustment cases has your department received in each of the following years, and what has the total cost been to the department for workplace adjustments in each year for 2010, 2011, 2012 and 2013?
4. What is the average amount of time within your department/agency that it takes to complete a workplace adjustment case?
5. Budgets for workplace adjustments:
 - a. Does your department/agency have a centralised budget for workplace adjustment?
 - b. If your department/agency does have a centralised budget for workplace adjustments, how much was it for the years 2010, 2011, 2012 and 2013?
 - c. If your department/agency does have a centralised budget for workplace adjustments, who is currently responsible for managing this?
6. How many workplace assessments were conducted in your department/agency in each of the following years? 2010, 2011, 2012 and 2013
7. Does your department/agency have a specific written policy in place for staff and managers to follow to help staff with disabilities in the workplace? If so, could you please provide a copy of this?

Information released:

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| 1. Year | Working days lost |
| 2010 | 6305 |
| 2011 | 6766 |
| 2012 | 7405 |
| 2013 | 7030 |

Please note that although the absence figures appear to have risen over this period of time, our headcount has increased substantially and our average of working days lost over the same period has actually decreased. The increase in headcount was partly a response to the need to meet an increased demand for our services. The other reason was to replace predicted retirees and other leavers. You should be aware that most of the new recruits require a long training period before they can contribute effectively to our core business activity of granting intellectual property rights.

2. The IPO does not record separate figures for absences due to a form of disability. (Even if specific absences were linked to disabled individuals, it would not be possible to confirm that those absences resulted from disability on each occasion.)

*3. Since we have a duty of care to all staff, every DSE requested was carried out, both for staff with declared disabilities and as preventative measures.
In 2010, 206 DSEs were carried out (an average of 17 per month) with 106 that required buying special equipment for them (chairs, ergonomic mice and keyboards).*

In 2011, 169 DSEs were carried out (14 per month) with 99 requiring special equipment bought for them.

In 2012, 196 DSEs were carried out (16 per month), 85 requiring special equipment.

In 2013, 200 DSEs were carried out with 70 requiring special equipment for them.

The cost is not accounted for as a separate item within the general Facilities Management Budget.

4. On average a typical DSE assessment takes half an hour however the follow up visits can extend this time.

5. a. The IPO does not have a specific budget for workplace adjustments; requests are met, as and when they arise, out of general (usually Facilities Management) cost centres. There is a furniture budget for the whole Office (around £100k) but this is not currently split between specialist equipment required as part of a DSE assessment and general requirements.

b. N/A

c. N/A

6. See 3 above.

7. Disability policy reproduced from staff handbook:

Disability

If you have a disability or suffer from a long-term health condition, you should discuss any help you need to carry out your job to the best of your ability with your line manager. This will ensure that any adjustments can be put into place and that you access the support and assistance available from the Office and colleagues. You have the right to a working life free from discrimination, victimisation or harassment.

The Office wishes and is required to, make reasonable adjustments to the nature of the work you do and your working environment to allow you to do your job. Legislation protects the rights of people with physical, sensory and learning disabilities and mental health problems. The law recognises that employers need to employ the right person for the job, and it does not require organisations to discriminate positively in favour of disabled people. Instead the objective is to ensure that a disabled person gets treated fairly along with all other employees and job candidates. The law also requires an employer to make reasonable adjustments if this enables a disabled person to do a job. Under the Act a “reasonable adjustment” is any step(s) that it is reasonable for an employer to take in all the circumstances. These adjustments should ensure that employment arrangements or premises do not put a disabled person at a disadvantage in comparison to a non-disabled person e.g. acquiring or modifying specialist equipment or procedures, the provision of training or altering the person's working hours or job duties. However, an employer may have a defence if the discrimination can be objectively justified, for example where the employee is permanently unfit for work.

Your responsibilities as an employee

All our staff are part of the Office's commitment to valuing diversity. This means:

- ☐ making every effort to assist colleagues with disabilities or long term health conditions
- ☐ ensuring full participation in the workplace and related activities
- ☐ not treating a colleague or staff member less favourably than someone else because of their disability or long term health condition.

Supporting information

- ☐ Reasonable adjustments relating to disability
- ☐ Equal opportunities and disability

Owner **HROperations** Last modified 28 March 2014

Discrimination

Information on discrimination, types of discrimination and the Equality Act.

Discrimination occurs when people of one gender, sexual orientation racial group, religion or belief etc. are treated unfairly or less favourably or are excluded or disadvantaged when directly compared with people from other gender, sexual orientation or racial groups. Further information on types of discrimination is available. In law the discrimination can be direct or indirect. Discrimination is covered by The Equality Act 2010. Further information on the Equality Act is available.

Examples of **direct discrimination** include:

- ☐ refusing to appoint or promote people of a particular racial group in the belief that they are inferior or superior to others of a different racial group;
- ☐ refusing to appoint or promote a woman on the assumption that women are less committed to their jobs or are less suitable than their male colleagues for certain jobs or vice versa;
- ☐ refusing to allow staff with disabilities to do certain jobs (for example those involving the public or which involve travel);
- ☐ refusing to allow a member of an ethnic minority to supervise an all white section or vice versa;
- ☐ displaying hostile attitudes towards people from another racial, ethnic, cultural or religious background;
- ☐ displaying hostile attitudes on the basis of sex, marital status, age or sexual orientation;
- ☐ displaying assumptions about sexual orientation, for example in relation to accent, appearance, dress or mannerisms.

Indirect discrimination means applying a provision, criterion or practice to a member of a gender/racial group which could adversely affect one particular racial or gender group more than another and which cannot be strictly justified in terms of the requirements for performing the job and which is to the detriment of the individual in that racial/gender group. Examples include:

- ☐ unjustified sifting criteria for recruitment e.g. an employment tribunal found that a criterion requiring every qualification to be obtained at school leaving age indirectly discriminated against an ethnic minority group where, in a particular area, evidence indicated that they obtained qualifications at a later stage;
- ☐ unjustifiable requirements to work full time and refusing to allow flexible working, which women would find harder to comply with than men; and
- ☐ a decision to exclude staff with child-care or other domestic responsibilities from recruitment, training or promotion opportunities which would be likely to adversely affect a disproportionately large number of women than men.

Owner **HR Operations** Last modified 02 December 2013

Disability leave & reasonable adjustments

Information on managing employees with a disability, disability leave, and making reasonable adjustments.

For employees with a disability (as defined by the Equality Act 2010) the office will make reasonable adjustments to accommodate their condition. Resources for employees or managers of employees with a disability are available below:

- ☐ Disability Leave guidelines
- ☐ How to make reasonable adjustments for employees with a disability

More information on Disability and the Equality Act is available in the staff handbook on Circle.

Owner **HR Advisors** Last modified 09 May 2014

Disability Leave Guidelines

The Office is committed to ensuring that all staff can provide regular and effective service in the workplace and this includes making reasonable adjustments for staff with a disability. Disability leave is an example of a reasonable adjustment provided under the Equality Act 2010. It allows staff with a disability, as defined by the Equality Act 2010 as “a physical or mental impairment which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities” to take reasonable absences during working hours for rehabilitation, assessment and treatment due to their disability.

Definition of disability leave

Disability leave is a form of paid leave for staff with a disability. Disability leave should not be used to cover periods of sickness absence. It should be used for people with a disability who would otherwise be in work. Examples of when disability leave may be granted include where an employee with a disability:

- ☐ has to attend medical appointments or receive treatment relating to their disability;
- ☐ is waiting for an agreed reasonable adjustment to be implemented, such as the provision of specialist equipment.

Disability leave may only be granted in these instances if the employee would be fit to carry out their duties normally before and after the treatment/appointment, or if they would be fit to attend work if the adjustment was in place. Where employees are waiting for the implementation of a reasonable adjustment, or training on equipment relating to a reasonable adjustment the manager should always explore with the employee whether they are able to undertake any meaningful work whilst they wait for a reasonable adjustment to be

put in place. Disability leave should only be granted after exploring any temporary adaptations that could be put in place to enable the employee to continue to work or return to work before the reasonable adjustment is implemented. Disability leave does not include absences needed to recover or recuperate from a specific illness or operation when an employee would not have normally been fit to work. Disability leave should not be granted to cover period of sickness absence; all sickness absence should be dealt with under the Attendance Management Policy and Procedures, and in line with the policy, an adjustment to trigger points can be considered as a reasonable adjustment for an employee with a disability. Disability leave should not be used to avoid staff progressing through the normal contractual sick pay entitlements, e.g. Half or nil sick pay. Disability leave is not treated in the same way as sickness absence and therefore does not count towards the employee reaching a trigger point. Disability leave should normally be limited to a maximum of 4 weeks in a rolling 12 month period. Disability leave does not count towards limits for special leave with pay.

Eligibility & Applications

Only employees who are or are likely to be considered disabled as defined by the Equality Act 2010 can apply for disability leave. Occupational Health advice may be sought in determining whether an employee is likely to meet this definition. If any employee is unsure of their eligibility for disability leave, they should discuss this with their line manager, or seek advice from the relevant HR Advisor. Any employee wishing to apply for disability leave should ensure that they speak to their line manager in the first instance; this will ensure that any disability leave applications are considered alongside any reasonable adjustments. Disability leave should, where possible, be applied for in advance, however in exceptional circumstances it may be applied for retrospectively. All applications will be considered by line management in line with this guidance, who will seek advice from the relevant HR Advisor to ensure that all requests are dealt with fairly and appropriately. The amount of disability leave granted will vary according to individual circumstances, but should not exceed the limits detailed in these guidelines. All disability leave should be recorded and authorised on Etarmis following the line manager's agreement.

FAQs

Q1. What is the difference between sick absence and disability leave?

Disability leave should not be used when an employee is not fit to work due to illness. When a person is unable to work due to illness, this should be recorded as sickness absence. Sickness and disability are not synonymous but certain illnesses may be exacerbated by a person's disability.

Q2. Who can apply for disability leave?

Any employee who is considered to be disabled as defined by the Equality Act 2010 which defines a disability as "a physical or mental impairment which has a substantial and long term adverse effect on a person's ability to carry out normal day to day activities". Terminology of the above definition explained: *Day to day activities* are normal activities carried out by most people on a regular basis and must involve one of the following broad categories: mobility, manual dexterity, physical coordination, continence, ability to lift, carry or move ordinary objects, speech, hearing, eyesight, memory or ability to concentrate, to learn or understand, and/or being able to recognise physical danger. A *substantial effect* is one, which is more than "minor" or "trivial". Examples of what would be considered to be substantial would include the inability to see moving traffic clearly enough to cross the road safely, inability to turn taps or difficulty in going up or down stairs. *Long term* is defined as having lasted or being likely to last at least 12 months or for the rest of a person's life and includes those effects that are likely to recur beyond the 12 month period following the first occurrence. The act also covers progressive conditions where the impairment is likely to become substantial. Examples of progressive conditions include: Cancer, HIV infection, Multiple Sclerosis and Muscular Dystrophy. The Act protects people with these conditions from the time that there is some noticeable effect on normal day to day activities, rather than from the date of diagnosis. The effect need not be continuous and need not be substantial.

Q3. When can disability leave be granted?

These are just a few examples of when disability leave may be granted:

Treatment

- ☐ An employee with a progressive condition requires a course of physiotherapy for one day per week for a period of six weeks. Disability leave may be granted to cover the employee's absence for physiotherapy
- ☐ A person has been diagnosed with a form of cancer and requires treatment. Disability leave may be granted for the day of treatment. However, if as a result of the treatment, they are too ill to attend work, this

should be recorded as sickness absence.

☐ An employee has been diagnosed with a mental health condition. As a result of their health condition they will be required to attend therapy sessions on a regular basis. Disability leave may be granted to cover the planned therapy sessions if they require a full day's absence.

Rehabilitation

☐ A disabled employee with a hearing impairment has been assessed by a medical practitioner as fit to work. The length of the rehabilitation period and its exact purpose, for example to learn lip reading, should be agreed in advance.

☐ A disabled employee requires additional equipment as a reasonable adjustment. The period of time when the employee is sick and unable to work should be recorded as sickness absence. However, disability leave may be considered if the employee is fit to return to work but still requires time to adjust to a change in circumstances; or is fit to work but cannot until specific reasonable adjustments are in place.

☐ An employee who uses a wheelchair is unable to attend work when a wheel on the chair is damaged. The employee's work is not suited to home working. Disability leave may be granted to cover the employee's absence from the office while waiting for repairs to be carried out. As this was an unpredictable absence disability leave may be granted retrospectively.

Assessment

☐ Some employees may need to manage and monitor their disability by attending predetermined specialist appointments to assess their condition and changes with medication.

☐ An occupational health report shows that an employee requires an assessment, for example, for dyslexia by a recognized professional to identify any reasonable adjustments that may be required. Disability leave may be granted to cover the person's absence on their dyslexia assessment day.

☐ A disabled employee has limited mobility and needs three days off each year to attend a specialist centre for a check-up. Disability leave may cover the absence.

Further information can be found on the attendance management FAQ's and the disability guidance on Circle.

Reasonable adjustments relating to disability

Section 20 of the Equality Act 2010 requires disabled people to be treated differently according to their needs by making "reasonable adjustments" for them. The Act only obliges employers to make such adjustments where they know - or could be reasonably be expected to know - that the person concerned is disabled and is likely to suffer a substantial disadvantage in comparison to a person who is not disabled. Reasonable adjustments may include:

☐ Making changes to the building or premises where the person works;

☐ Changing the way in which work is done;

☐ Providing equipment that will help the person do their job.

IPO only has to make adjustments that are reasonable. When deciding if an adjustment is reasonable considerations include:

☐ How effective it will be in helping the person do their job;

☐ Whether it is practical to make the adjustment;

☐ How much disruption, if any, will be caused to IPO business or other people;

☐ How much, if anything, the adjustment will cost and the budgetary position.

Once disability is established, it may be necessary to consult IPO's occupational health adviser and/or the job holder's GP on how the job holder's ability to carry out their job is affected by the disability, and on the types of reasonable adjustment that could be made. In the majority of cases the reasonable adjustments will automatically be approved and implemented and subject to a review process which is likely to vary in each individual case. In a minority of cases it will be evident that the adjustment may not be reasonable. In these cases you have right of appeal through the grievance procedure.

Reasonable adjustments implemented in IPO

The range of possible adjustments is potentially very wide. The kind of steps IPO has taken over the years to rectify a disadvantage resulting from a disability include:

☐ Altering hours or the place of work;

☐ Installing voice recognition software;

☐ Display Screen Equipment (DSE) adjustments such as suitable chairs, desks, armrests,

footrests, keyboards, adapted mouse devices;

- ☐ Specialist screen and magnifying equipment for partially sighted staff;
- ☐ Hearing loops;
- ☐ Adjustments to duties or working hours on a permanent or temporary basis;
- ☐ Adjustments to sick absence triggers;
- ☐ Ability to return to work on reduced hours for a period of time;
- ☐ Disabled car parking spaces;
- ☐ Tailored personal emergency evacuation plans where required

What is the process for deciding if reasonable adjustments are appropriate for you?

If you consider that you may be covered by the Equality Act, there is an expectation that you will engage with the management processes for deciding what adjustments are appropriate for you. This will ensure that everything reasonably possible is done to put in place the reasonable adjustments that you require; and to ensure the IPO meets its legal obligations under the Equality Act.

Key action points if you feel a reasonable adjustment is justified:

- ☐ You should speak to your line manager and/or HR advisor and set out in writing details of your condition and its impact in the workplace.
- ☐ You will be consulted on likely adjustments and advised by your line manager whether any can immediately be made or whether further investigations will need to be undertaken.
- ☐ You may be asked to provide additional information, for example from Occupational Health, to ensure as complete a picture as possible. Others who may be involved at an early stage include Health and Safety, IT, Staff Counsellor, FM Accommodation) and/or, where appropriate, specialists in particular fields who may have knowledge that can assist in suggesting adjustments.
- ☐ Information disclosed as part of the process of deciding reasonable adjustments will be treated as sensitive personal data and access to it will be strictly limited.

In the event that you decide not to participate in the assessment process, or are unwilling to share necessary data to ensure an objective and informed assessment, this may affect the IPO's ability to put in place the full range of adjustments that you might need. This may also impact on your performance but would not constitute grounds for stopping implementation of performance management procedures.