



A meeting of
Argyll College Human Resources & Remuneration Committee
to be held at 1.30pm on Friday 24 May 2019
Lorne Street Centre, Lochgilphead PA31 8LU
Tel 01631 559560

A G E N D A

Item		STATUS	PAPERS
19.2.1	Welcome & apologies for absence		
19.2.2	Declarations of interest & to identify any items deemed confidential		
19.2.3	Minute of meeting 1 March 2019	For approval	Attached
19.2.4	Matters arising - None	For information	
19.2.5	Summary of Recruitment and HR in last quarter	For information	Attached
19.2.6	Amendments to Policies: - Long Term Sickness Policy	For approval	Attached – as 19.2.6a
19.2.7	AOCB		
19.2.8	Date of next meeting: Friday 30 th August 2019		

Please send any apologies or questions to Vicky (Secretary to Board)
victoria.daveney@uhi.ac.uk / mobile: 07384 246325



University of the
Highlands and Islands
Argyll College

Oilthigh na Gàidhealtachd
agus nan Eilean
Colaiste Earra-Ghàidheil

**Minute of the Argyll College Management Board
Human Resources & Remuneration Committee
held at 2pm on Friday, 1 Mar 2019
in room LO7, Lochgilphead Centre**

Present: Ken Jones (Chair); Andrew Campbell (AMC); Jennifer Swanson (JS)

In Attendance: Ailsa Close (AEC); Elaine Munro (EM); Martin Jones (MJ)

No	Item	Action
19.1.1	Welcome & apologies for absence. There were no apologies.	
19.1.2	Declaration of interest & to identify if any items deemed to be confidential. No declarations of interest.	
19.1.3	Minute of meeting held on 16th Nov 2018. The minutes were approved as an accurate record of the meeting and will be signed by the Chair.	
19.1.4	Matters arising. Interim nursery manager in place and Council has agreed to extend her secondment to the end of August 2019. Care Commission visit was on Tuesday (26 th Feb) and initial feedback is that the report has grading of 'good' in all areas. This is a significant improvement from the previous Care Commission report. Thanks expressed to EM for the work she has put in to the Nursery.	
19.1.5	Summary of Recruitment and HR in last quarter The report was noted.	
19.1.6	Policies to approve: Nursery Infection Control policy – Approved Nursery Medication policy – Approved	
19.1.7	AOCB There was no other business.	
19.1.8	Date of next meeting – The next meeting will be held on Friday 24 th May 2019 at 2pm	
	Signed by	

 Date	
	Chair of Human Resources & Remuneration Committee	



University of the
Highlands and Islands
Argyll College

Oilthigh na Gàidhealtachd
agus nan Eilean
Colaiste Earra-Ghàidheil

LONG TERM SICKNESS AND RETURN TO WORK POLICY AND PROCEDURE

Policy Number:	LTSRTWPP1
Revision Number:	1
Date of issue:	October 2016
Status:	Approved
Date of approval:	December 2015
Responsibility for policy:	HR Officer
Responsibility for implementation:	Depute Principal
Responsibility for review:	HR Officer
Date of last review:	
Date of last revision:	
Date of next review:	December 2020
Date of equality impact assessment:	29 March 2017

Contents

1. Policy statement	2
2. Purpose	2
3. Scope:.....	2
4. Definitions:.....	2
5. Time frames and Criteria	2
6. General Principles:	3
7. Support to return to work after long term absence:	4
8. Guidance for management:	4
9. Meeting with employee to discuss a phased return to work	5
10. Legislation Relating to Document:.....	6

1. Policy statement

- 1.1. Argyll College UHI aims to encourage all employees to maximise their attendance at work while recognising that a certain level of sickness absence is inevitable.

2. Purpose

- 2.1. The purpose of this procedure is to:
- 2.2. Encourage all staff to maximise their attendance at work.
- 2.3. Support employees who are genuinely sick and unable to come to work.

3. Scope:

- 3.1. For all full and part time employees of Argyll College UHI.

4. Definitions:

- 4.1. Long Term Sickness: defined as one sickness period or absence lasting over 4 calendar weeks in total.
- 4.2. Line Manager: Manager who employee directly reports to or HR department if absent
- 4.3. Statement of fitness for work, known as “fit/sick note”
<https://www.gov.uk/government/collections/fit-note>

5. Time frames and Criteria

- 5.1. This policy outlines the timeframes and criteria within which salaries will continue to be paid in full or part during sickness absence, as long as the procedure has been followed and medical evidence is provided.
- 5.2. The procedure for notification of sickness absence is the same as the short term sickness policy and procedure,
- 5.3. Employees should notify their line manager by telephone if he/she is ill or unable to attend work for any other reason. This should be done as early as is possible and where ever possible and no later than one hour after employee’s start time.
- 5.4. Employee should be prepared to state the reason why he/she cannot attend work and how long they expect/think absence will last.
- 5.5. After 26 weeks continuous service, entitlement is;

Service	Full Pay	Half Pay
Up to 1 year	5 weeks	5 weeks
1-2 years	9 weeks	9 weeks
2-3 years	18 weeks	18 weeks
3-4 years	22 weeks	22 weeks
4-5 years	26 weeks	26 weeks

5.6. The maximum amount of sick leave on full pay is 6 months (26 weeks) in any rolling period of 12 months followed by 6 months (26 weeks) on half pay subject to an overriding limit of 12 months sick leave in any 4 years. If an employee exceeds a total of 26 weeks full pay and 26 weeks half pay over a 4 year period no further sickness pay will be processed, unless there are mitigating circumstances.

5.7. If the employee does not have 26 weeks continuous employment they may be eligible to Statutory Sick Pay, however this will be depending on rate of pay etc, and the Payroll department will advise the employee.

6. General Principles:

6.1. During a long term sickness absence, the college may refer an employee to an occupational health practitioner to seek further advice and guidance on the employee's ability to return to work. No confidential or sensitive information will be shared by the Occupational Health Professional unless you have given your express permission.

6.2. In the rare instances that a sickness absence results in the inability to perform regular responsibilities, Argyll College UHI will explore every alternative to avoid the need for a termination.

6.3. Employers should note that the Equality Act 2010 protects employees from unfavourable treatment related to a disability. A medical condition that is recurrent may depending on its effect on the employee be classed as a disability under the Act.

6.4. The employment right Act 1996 provides that "capability" is a potentially fair reason for dismissal. An employee whose long-term absence is due to sickness will not be capable of performing his/her job. However for the dismissal to be fair, the employer must be able to show that it had treated the employee reasonable in taking the decision to dismiss.

6.5. If Argyll College UHI were to proceed with a termination due to capability as a result of a long term sickness absence, the process would be the following. The college will:

6.5.1. Review the employee's absence record to assess whether or not it is sufficient to justify dismissal.

6.5.2. Consult with the employee.

6.5.3. Obtain up to date medical advice.

6.5.4. Advise the employee in writing as soon as it is established termination of employment has become a possibility.

- 6.5.5. Meet with the employee to discuss options and consider the employees views on continuing with employment. Review if there are any other jobs that the employee could do prior to taking any decision on whether or not to dismiss.
- 6.5.6. If this is the case the employer will be under a duty to make reasonable adjustments to the employees working arrangements in order to help reduce the disadvantage that the employee would otherwise experience.
- 6.5.7. Allow a right of appeal against any decision to dismiss the employee on grounds of long term ill health.
- 6.5.8. Arrange a further meeting with the employee to determine any appeal.
- 6.5.9. Following this meeting, inform the employee of the final decision.
- 6.5.10. Act reasonably toward the employee at all times.

7. Support to return to work after long term absence:

- 7.1. A full return to work is often most successful and easiest when it is dealt with gradually, building up to full working hours rather than returning to full duties immediately following a long term sickness absence.
- 7.2. It is not suitable if the employee remains unfit for work, and is unlikely to be necessary when an employee has been absent due to a short term sickness absence.
- 7.3. A phased return to work will normally be prompted by a doctors letter, medical note, statement of fitness to work "fit note", or as recommended by the Fit for Work service - <https://www.gov.uk/government/collections/fit-for-work-guidance>. These should give details of what the healthcare professional has in mind for a phased return to work, and this can normally be used as the basis of discussions about the return to work. The two main approaches suggested are often:
 - 7.3.1. Reduced hours – no alteration to work content, but the number of hours are adjusted or reduced initially.
 - 7.3.2. Restricted duties- no alteration or reduction on working hours but work content to be limited.
- 7.4. It is normal that employees will retain full pay and benefits during a phased return to work plan, even if working reduced or altered hours.

8. Guidance for management:

- 8.1. Supporting a return to work is about good people management. You do not need to have knowledge about the employee's illness or condition but show good people management skills, including effective communication, sensitivity to and understanding of the individual.
- 8.2. Build good relationships with staff. If good relationships with staff are in place prior to any absence you are in a better position to support their return to work.

- 8.3. Sustaining supportive behaviours. This needs to be sustained beyond the initial return to work period. It is easy to return to “business as usual” following the employees return, but ongoing support may be needed.
- 8.4. Contact with employees while they are off. Managers are often hesitant about contacting employees while they are off work. However, this may be welcomed by the employee and can be associated with a range of positive return to work outcomes. This can be agreed between the line manager and the employee. Weekly contact is usual for long term absence but variations can be agreed.

9. Meeting with employee to discuss a phased return to work

- 9.1. If a return to work is not possible due to the limitations of the employee, a meeting can be arranged to better understand what limitations they face and what reasonable adjustments the employer can implement to ensure a healthy return to work for the employee. A meeting can be requested by the employee at any point. The meeting will be attended by the line manager, and HR for compliance and note taking purposes. Occupational health may also attend or be consulted if necessary.
- 9.2. Meetings will normally be held face to face
- 9.3. Appropriate reasonable adjustments will be made to enable disabled employees to attend and fully participate, these can include:
- 9.3.1. Holding the meeting in a room accessible to the employee
 - 9.3.2. Allowing the employee to have breaks where necessary
 - 9.3.3. Allowing the employee to be accompanied by a friend or relative where necessary
 - 9.3.4. Employee will be told in advance in writing (appendix A) of arrangements for the meeting, including who will attend
 - 9.3.5. Employee will also be given an opportunity in advance of the meeting to suggest any changes that he/she may want to be made to the arrangements
 - 9.3.6. If the meeting cannot be held face to face then it will be by VC or telephone call.
- 9.4. The meeting:
- 9.4.1. The chair of the meeting will ensure that he/she brings appropriate medical letters, reports or plans to be used in considering the employees phased return to work
 - 9.4.2. The chair of the meeting will ensure that the employee is happy with the arrangements for the meeting. If the employee makes a suggestion this will be noted, and if changes can be made they will be. If arrangements cannot be changed the chair of the meeting will consider whether or not the meeting should continue.
 - 9.4.3. The chair of the meeting will outline any proposals that the organisation has to make in light of the medical advice/statement of fitness to work.
 - 9.4.4. Matters that will be discussed and, if agreed documented after the meeting are:
 - 9.4.5. When the phased return to work is to start?
 - 9.4.6. What hours and work the employee will undertake during the phased return?
 - 9.4.7. At what location the employee will start their phased return e.g. at home or in the office?

- 9.4.8. Whether or not there are any other changes to the working arrangements that may be made e.g. computer equipment, a special chair
- 9.4.9. What changes in duties, working hours and/or location are thereafter expected to occur?
- 9.4.10. What arrangements will be put in place to monitor the employee's progress and note any difficulties?
- 9.4.11. To whom the employee should report if he/she has any difficulties with the arrangements.
- 9.4.12. At the end of the meeting the note taker will summarise what has been agreed, what remains in dispute and what follow up has been agreed. The follow up may require a further meeting and the date of this will be arranged and agreed at the end of the first meeting.

9.5. Follow up

9.5.1. Where agreement is reached this will be noted and sent to the employee (Appendix B). Where there remain outstanding matters the college may need to take further medical or healthcare professional advice or have further internal discussions about possible adjustments.

9.6. Failure to attend the meeting

- 9.5.1. All known contact details for the employee will be checked. If a telephone number is available the chair of the meeting will call to see if the employee is delayed, or if there is some other reason why he/she has not been able to attend the meeting. The telephone call and the response will be noted
- 9.5.2. If no response and no reason is given for the employee's absence, the meeting will be rescheduled once to allow the employee a further opportunity to attend the meeting.

10. Legislation Relating to Document:

- 10.1. Employment Rights Act 1996
- 10.2. Equality Act 2010
- 10.3. Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence)(Amendment) Regulations 2010
- 10.4. No law specifically governs the treatment of employees who take a period of long term sickness, apart from the duty to pay statutory sick pay where an employee is eligible for it, nor is an employer obliged by statute to continue an employee's normal salary. Argyll College UHI therefore reserves the right for sick pay over and above Statutory Sick Pay (SSP) to be at its discretion.
- 10.5. If the employee chooses to return to work earlier than the Statement of fitness to work (fit-note) states then they will need to request this in writing to their line manager, who along with HR will assess the fitness of the employee and their ability to return to work.



University of the
Highlands and Islands
Argyll College

Oilthigh na Gàidhealtachd
agus nan Eilean
Colaiste Earra-Ghàidheil

LONG TERM SICKNESS AND RETURN TO WORK POLICY AND PROCEDURE

Policy Number:	LTSRTWPP1
Revision Number:	1
Date of issue:	October 2016
Status:	Approved
Date of approval:	December 2015
Responsibility for policy:	Depute Principal
Responsibility for implementation:	HR Officer
Responsibility for review:	HR Officer
Date of last review:	
Date of last revision:	
Date of next review:	December 2020
Date of equality impact assessment:	29 March 2017

Reviewer	Date	Review Action/Impact
SM	25.04.19	Review of phased return to work sections 7-9

Contents

1. Policy statement	1
2. Purpose	1
3. Scope:	1
4. Definitions:.....	1
5. Time frames and Criteria	1
6. General Principles:.....	2
7. Support to return to work after long term absence:.....	3
8. Meeting with employee to discuss a phased return to work.....	4
9. Legislation Relating to Document:	6

1. Policy statement

- 1.1. Argyll College UHI aims to encourage all employees to maximise their attendance at work while recognising that a certain level of sickness absence is inevitable. This policy works in conjunction with the Attendance Policy & Procedure in order to achieve that aim.

2. Purpose

- 2.1. The purpose of this procedure is to:
 2.2. Encourage all staff to maximise their attendance at work.
 2.3. Support employees who are genuinely sick and unable to come to work.

3. Scope:

- 3.1. For all full and part time employees of Argyll College UHI.

4. Definitions:

- 4.1. Long Term Sickness: defined as one sickness period or absence lasting over 4 calendar weeks in total.
 4.2. Line Manager: Manager who employee directly reports to or HR department if absent
 4.3. Statement of fitness for work, known as “fit/sick note”
<https://www.gov.uk/government/collections/fit-note>

5. Time frames and Criteria:

- 5.1. This policy outlines the timeframes and criteria within which salaries will continue to be paid in full or part during sickness absence, as long as the procedure has been followed and medical evidence is provided.
 5.2. The procedure for notification of sickness absence is the same as the short term sickness policy and procedure,

- 5.3. Employees should notify the absence reporting number - 07766188904 - by telephone if they are ill or unable to attend work for any other reason. This should be done as early as possible on the first day of sickness and thereafter on every subsequent day of sickness. The expectation is that the employee will contact this number before their expected start time at work.
- 5.4. Employees should be prepared to state the reason why he/she cannot attend work and how long they expect/think absence will last.
- 5.5. After 26 weeks continuous service, entitlement to sick pay is as follows:

Service	Full Pay	Half Pay
Up to 1 year	5 weeks	5 weeks
1-2 years	9 weeks	9 weeks
2-3 years	18 weeks	18 weeks
3-4 years	22 weeks	22 weeks
4-5 years	26 weeks	26 weeks

- 5.6. The maximum amount of sick leave on full pay is 6 months (26 weeks) in any rolling period of 12 months followed by 6 months (26 weeks) on half pay subject to an overriding limit of 12 months sick leave in any 4 years. If an employee exceeds a total of 26 weeks full pay and 26 weeks half pay over a 4 year period no further sickness pay will be processed, unless there are mitigating circumstances. The decision on mitigating circumstances will be made by the HR Officer in conjunction with two members of the Executive Team.
- 5.7. If the employee does not have 26 weeks continuous employment they may be eligible for Statutory Sick Pay (SSP), however this will be dependent upon the rate of pay etc. and the payroll department will advise the employee.

6. General Principles:

- 6.1. During a long term sickness absence, the college and the employee will be expected to remain in regular contact. The college may refer an employee to an occupational health practitioner to seek further advice and guidance on the employee's ability to return to work. No confidential or sensitive information will be shared by the occupational health professional unless the employee has given their express permission.
- 6.2. In the rare instances that a sickness absence (and/or a series of sickness absences) results in the inability to perform regular responsibilities, Argyll College UHI will explore every alternative to avoid the need for termination of employment.
- 6.3. Employers should note that the Equality Act 2010 protects employees from unfavourable treatment related to a disability. A medical condition that is recurrent may, depending on its effect on the employee, be classed as a disability under the Act.
- 6.4. The Employment Rights Act 1996 provides that "capability" is a potentially fair reason for dismissal. However for the dismissal to be fair, the employer must be able to show that it had treated the employee reasonably in taking the decision to dismiss.

6.5. If Argyll College UHI were to proceed with termination of employment due to capability as a result of a prolonged or repetitive long term sickness absence(s), the process would be as follows. The college will:

- 6.5.1. Obtain up to date medical advice and review the employee's absence record to assess whether or not it is sufficient to justify dismissal.
- 6.5.2. Consult fully with the employee.
- 6.5.3. Ensure that all modifications relating to the employees workplace environment and role have been explored.
- 6.5.4. Give full consideration as to whether there is any other suitable alternative employment within the college.
- 6.5.5. Advise the employee in writing as soon as it is established termination of employment has become a possibility.
- 6.5.6 The employee will be invited to a hearing. The member of staff will be given at least 5 working days' notice, in writing, of the hearing.
- 6.5.7 In the written notice, the member of staff will be:
 - informed of the reason(s) for the hearing;
 - advised of the right to be accompanied by a work colleague or Trade Union representative (where applicable); and
 - provided with copies of all written evidence which will be considered at the hearing. Evidence will include data relating to the absence(s), medical evidence and commentary, the impact that the absence has on the operation of the college, and the reason(s) why termination of employment is necessary. It will also include the alternative options which have been considered.
- 6.5.8 The hearing will be conducted by an appropriate member of the Senior Management Team (SMT) and the decision will be communicated to the member of staff within 3 working days.
- 6.5.9 If the member of staff is not able to attend in person as a consequence of their medical condition, other reasonable communication methods may be used. Should this prove to be impossible, the hearing may be held in the absence of the employee.
- 6.5.9. Where a member of staff wishes to appeal against the decision, s/he must, within 5 working days of receipt of the letter confirming the outcome of the hearing, write to the Human Resources Officer notifying him/her of the wish to appeal and the grounds upon which the appeal is made. Such an appeal should identify the specific grounds upon which it is made, for example a failure to follow appropriate procedure. Appeals will be heard relative to the grounds specified and will not normally be a full re-hearing of the original disciplinary issues.
- 6.5.10 Where an appeal notification is received, the Human Resources Officer will arrange for an appeal hearing to take place. The appeal hearing will normally be held within 15 working days of receipt of the notice. It will be heard by a member of the Executive Team (ET).
- 6.5.11 An appeal is not a re-hearing. The decision of the appeals process is final and there is no further avenue of appeal.

7. Support to return to work after long term absence:

- 7.1. A discussion will take place between the Line Manager and the employee in advance of any return to work to ensure that the process is smooth and the employee is fully supported. A full return to work is often most successful and easiest when it is dealt with gradually, building up to

full working hours rather than returning to full duties immediately following a long term sickness absence i.e. a phased return to work. The full process is outlined in Section 8.

- 7.2. A phased return is not suitable if the employee remains unfit for work and the employee would then remain on sickness absence. It is also unlikely to be necessary when an employee has been absent due to a short-term sickness.
- 7.3. A phased return to work will normally be prompted by a doctors letter, medical note, statement of fitness to work “fit note”, or as recommended by the Fit for Work service - <https://www.gov.uk/government/collections/fit-for-work-guidance>. These should give details of what the healthcare professional has in mind for a phased return to work, and this would normally be used as the basis of discussions about the return to work. The college may also seek advice from Occupational Health.
 - 7.3.1 The two main approaches to a phased return to work would be an initial reduction in hours and/or alteration in duties which would gradually build to a position where the employee would be able to resume their normal duties by the end of the phased return.
- 7.4. A phased return to work will normally last for a maximum of 4 weeks. During this time normal contractual pay arrangements will apply to the days the employee attends their place of work; sickness pay or annual leave will apply to the days the employee does not attend work during the phased return.
- 7.5. The college may agree to extend the phased return to work, following discussion with the employee, subject to an overall maximum of 8 weeks.

8. Meeting with employee to discuss a phased return to work

8.1. If a full return to work is not immediately possible due to the limitations of the employee, a meeting can be arranged to better understand what limitations they face and what reasonable adjustments the employer can implement to ensure a healthy return to work for the employee. A meeting can be requested by the employee at any point. The Line Manager and HR will attend the meeting. Occupational Health may also be consulted if necessary.

8.2. Meetings will normally be held face to face.

8.3. Appropriate reasonable adjustments will be made to enable disabled employees to attend and fully participate, these can include:

8.3.1. Holding the meeting in a room accessible to the employee

8.3.2. Allowing the employee to have breaks where necessary

8.3.3. Allowing the employee to be accompanied by a friend or relative where necessary

8.3.4. The employee will be notified in writing of arrangements for the meeting, including who will attend

8.3.5. The employee will also be given an opportunity in advance of the meeting to suggest any changes that he/she may want to be made to the arrangements

8.3.6. If the meeting cannot be held face to face then it will be by video conference (VC) or telephone call.

8.4. The meeting will be conducted as follows:

- 8.4.1. The HR Officer will normally chair the meeting and will ensure that they bring appropriate medical letters, reports or plans to be used in considering the employees phased return to work
- 8.4.2. The chair of the meeting will ensure that the employee is content with the arrangements for the meeting. If the employee makes a suggestion this will be noted, and if changes can reasonably be made, they will be. If arrangements cannot be changed the chair of the meeting will consider whether or not the meeting should continue.
- 8.4.3. The chair of the meeting will outline any proposals that the college should follow in the light of the medical advice/statement of fitness to work.
- 8.4.4. Matters that will be discussed and, if agreed, documented after the meeting are:
- When the phased return to work is to start?
 - The hours and duties the employee will undertake during the phased return. This includes the agreement on the hours not worked during the phased return (for example, will these be paid within the employees sickness absence entitlement or taken as annual leave?)
 - What is the expected duration of the planned phased return? This includes the agreement of a planned incremental increase in working hours leading to the employee resuming contractual hours at the end of the phased return to work.
 - Whether or not there are any other changes to the working arrangements that may be made e.g. computer equipment, furniture
 - What changes in duties and working hours are thereafter expected to occur?
 - What arrangements will be put in place to monitor the employee's progress and note any difficulties?
 - To whom the employee should report if he/she has any difficulties with the arrangements.
- 8.4.5 At the end of the meeting HR will summarise what has been agreed, what remains to be resolved and what follow up has been agreed. The follow up may require a further meeting and the date of this will be arranged and agreed at the end of the first meeting.

8.5. Follow up to the meeting:

- 8.5.1. Where agreement is reached this will be noted and HR will confirm in writing to the employee the circumstances of the agreed phased return.
- 8.5.2 Where there remain outstanding matters, the college may need to take further medical or healthcare professional advice or have further internal discussions about possible adjustments before a final decision is made.

8.6. Failure to attend the meeting

- 8.6.1. All known contact details for the employee will be checked. If a telephone number is available the chair of the meeting will call to see if the employee is delayed, or if there is some other reason why they have not been able to attend the meeting. The telephone call and the response will be noted
- 8.6.2. If no response and no reason is given for the employee's absence, the meeting will be rescheduled once to allow the employee a further opportunity to attend the meeting.

9. Legislation Relating to Document:

- 9.1. Employment Rights Act 1996
- 9.2. Equality Act 2010
- 9.3. Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence)(Amendment) Regulations 2010
- 9.4. No law specifically governs the treatment of employees who take a period of long term sickness, apart from the duty to pay statutory sick pay where an employee is eligible for it, nor is an employer obliged by statute to continue an employee's normal salary. Argyll College UHI therefore reserves the right for sick pay over and above Statutory Sick Pay (SSP) to be at its discretion.
- 9.5. If the employee chooses to return to work earlier than the Statement of Fitness to Work (fit-note) states then they will need to request this in writing to their line manager, who along with HR will assess the fitness of the employee and their ability to return to work.