

Attachment 2



CITY CLERK

Clause embodied in Report No. 11 of the Administration Committee, as adopted by the Council of the City of Toronto at its meeting held on July 24, 25 and 26, 2001.

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Attendance Management Program

(City Council on July 24, 25 and 26, 2001, adopted this Clause, without amendment.)

The Administration Committee recommends:

- (1) **the adoption of the Recommendation of the Personnel Sub-Committee embodied in the communication (June 19, 2001) from the Acting City Clerk;**
- (2) **that the Commissioner of Corporate Services be requested to include in the Attendance Management Program a requirement to use discretion in handling the policy; and**
- (3) **that management staff be required to refer workplaces where there is above average absenteeism for the Division to Labour-Management Occupational Health Committees for discussion of measures that could improve the health of that workplace.**

The Administration Committee reports, for the information of Council, having received the report (June 28, 2001) from the Commissioner of Corporate Services, respecting the Attendance Management Program.

The Administration Committee submits the following communication (June 19, 2001) from the Acting City Clerk:

Recommendation:

The Personnel Sub-Committee recommends to the Administration Committee the adoption of the report (June 4, 2001) from the Commissioner of Corporate Services, subject to striking out the word "framework" from Recommendation No. (2) contained therein and inserting in lieu thereof the word "conditions" so that the recommendation now reads as follows:

“(2) the conditions for defining and reporting absences developed for city departments for the monitoring of attendance be provided to agencies, boards and commissions to enable meaningful comparisons.”

The Personnel Sub-Committee reports for the information of the Administration Committee, having requested the Commissioner of Corporate Services to:

- (1) report to the Administration Committee meeting scheduled to be held on July 3, 2001, on the concerns raised by Councillor Bussin with respect to the relationship between the Attendance Management Program and the disciplinary methods for culpable absenteeism as set out in the procedures of the Attendance Management Program; and
- (2) meet with representatives of Local 79 and, if necessary, Local 416, prior to the Administration Committee meeting scheduled to be held on July 3, 2001, to discuss this matter and submit a further report to the Administration Committee on such discussions.

Background:

The Personnel Sub-Committee at its meeting held on June 19, 2001, had before it a report (June 4, 2001) from the Commissioner of Corporate Services, reporting on a harmonized Attendance Management Program for city employees in order to monitor attendance and provide a consistent approach in addressing absenteeism including ensuring the appropriate support and assistance for employees who experience difficulty in achieving regular attendance consistent with the workplace average; advising that there are no immediate financial implications resulting from the adoption of this report; that the implementation of this program will contribute to the reduction of employee absenteeism and associated costs; and recommending that:

- (1) the harmonized Attendance Management Program as described in "Appendix A" be adopted; and
- (2) the framework for defining and reporting absences developed for city departments for the monitoring of attendance be provided to agencies, boards and commissions to enable meaningful comparisons.

The Personnel Sub-Committee also had before it a communication (June 18, 2001) from the Executive Director, COTAPSAI, advising that they are pleased to work with the City as part of this process.

Mr. David Kidd, 2nd Vice President, CUPE Local 79, appeared before the Personnel Sub-Committee in connection with the foregoing matter and filed a written submission in respect thereto.

(Report dated June 4, 2001, addressed to the Personnel Sub-Committee
from the Commissioner of Corporate Services.)

Purpose:

To report on a harmonized Attendance Management Program for city employees in order to monitor attendance and provide a consistent approach in addressing absenteeism including ensuring the appropriate support and assistance for employees who experience difficulty in achieving regular attendance consistent with the workplace average.

Financial Implications and Impact Statement:

There are no immediate financial implications resulting from the adoption of this report, however, the implementation will contribute to the reduction of employee absenteeism and associated costs.

Recommendations:

It is recommended that:

- (1) the harmonized Attendance Management Program as described in "Appendix A" be adopted; and
- (2) the framework for defining and reporting absences developed for city departments for the monitoring of attendance be provided to agencies, boards and commissions to enable meaningful comparisons.

Background:

The majority of the former municipalities had established policies or practices for attendance management. A harmonized attendance management program for the city has been developed based on best practices of the former municipalities as well as current best practices established through arbitral jurisprudence and adopted by other external organizations.

In response to a council directive Fire Services has proceeded to implement an Attendance Management Program consistent with that being recommended, in advance of the corporate implementation.

Further to these initiatives, City Council at their meeting of April 23, 24, 25, 26, 27, adopted the recommendation from Audit Committee that the Commissioner of Corporate Services submit the developed policy to the Administration Committee by June 30, 2001. Also approved was the recommendation from Audit Committee that the Commissioner of Corporate Services report on a framework for reporting absenteeism across the corporation to enable a meaningful comparison of absenteeism among departments, agencies, boards and commissions.

Comments:

Employee absenteeism is a major concern of every employer. Excessive absenteeism causes increased operational costs and disruption to the workforce.

A review of the former municipalities, external organizations and the secondary literature on best practices identifies the following objectives, requirements and elements of Attendance Management Programs:

Objectives:

- (i) to reduce the costs and operational problems caused by absenteeism;
- (ii) to establish a consistent approach to managing attendance;

- (iii) to bring to the attention of employees the impact on the operation of absences from work; and
- (iv) to assist and accommodate the needs of employees to achieve regular attendance and to make available resources and services to assist them.

Requirements:

- (i) a clear distinction between the process for dealing with innocent absenteeism and culpable absenteeism;
- (ii) emphasis on the law of innocent absenteeism and the duty to accommodate; and
- (iii) consistent with requirements under the Human Rights Code and the Workplace Safety and Insurance Act.

Elements:

The duty to accommodate a handicap is prescribed under the Ontario Human Rights Code. Culpable or blameworthy absenteeism is dealt with as a disciplinary matter. It is the dealing with innocent absenteeism in situations not involving a handicap that corporate policy is required.

Elements of an Attendance Management Policy to address innocent absenteeism include:

- (i) identification of workforce attendance averages;
- (ii) monitoring and reporting on workforce and individual attendance;
- (iii) meetings and follow-up with employees whose level of absenteeism is above the workplace average, providing clear expectation to the employee for improvement; and
- (iv) employee referrals to resources including Employee Health and Rehabilitation and Employee Assistance.

The Attendance Management Policy recommended for the city (Appendix A) addresses the management of innocent absenteeism. The policy objectives are:

- (i) to maximize service delivery to the public, and
- (ii) to assist employees in minimizing absences from work by making every reasonable effort to provide accommodation, assistance and rehabilitation,

by managing employee absenteeism in a fair and consistent manner.

The policy meets the requirements and includes the elements identified as common best practices for dealing with innocent absenteeism.

Additional program guidelines have been developed for supervisors.

Implementation:

A program implementation team has been established with representatives from Finance, Human Resources and departments to address:

- (i) data systems needs; framework for collecting and reporting;
- (ii) supervisory training; and
- (iii) communications.

Further to the recommendation from Audit Committee, Audit Services has been requested to join the implementation team.

With respect to the data and reporting needs, as of May 2001 there is one year of attendance data on the SAP system consistent with the definition of absenteeism to be monitored under this policy.

The absences to be monitored under the Attendance Management Program for innocent absenteeism include, ill with pay, ill without pay, ill no deduction and denied WSIB claims. These kinds of absences are entered into the SAP system and can be reported separately from approved absences, workers compensation and long term disability absences. Problems with earlier attempts to compare attendance data in the amalgamating organization and across agencies, boards and commissions as well as externally was that different kinds of absences could not be reported out separately and had been combined in different ways in each organization.

The implementation team will ensure that this framework for entering and reporting workforce data is consistent across departments. It is recommended that the city's agencies, boards and commissions be advised of this definition for reporting such that meaningful comparisons can be made. The framework for reporting is also consistent with the benchmarking practices for the Human Resources Network, allowing for comparisons across a large cross section of external organizations both public and private sector.

Conclusions:

A need was identified to harmonize attendance management programs and practices. A policy has been developed for the city based on the best practices of the former municipalities, current best practices of external organizations and legal jurisprudence.

A consistent framework for defining and recording absences will allow for improved reporting and monitoring of attendance.

Contact:

Alison Anderson
Director, Employment Services
Tel: 416-392-5028
Fax: 416-392-3920
e-mail: aanderso@city.toronto.on.ca

Appendix "A"

Attendance Management Program

This policy addresses the management of innocent or non-culpable absenteeism.

Policy:

Every employee of the City of Toronto has an obligation to perform with regularity the functions for which they were hired. It is the policy of the City of Toronto to manage employee absenteeism in a fair and consistent manner with the following objectives:

- (i) to maximize service delivery to the public.
- (ii) to assist employees in minimizing absences from work by making every reasonable effort to provide accommodation, assistance and rehabilitation.

To make this program effective, the City is committed to:

- (i) promoting a healthy workplace, and
- (ii) providing guidance and training to management staff who are responsible for dealing with attendance issues.

Definitions:

Innocent or Non-Culpable Absenteeism: Absence from work due to illness, or non-occupational injury, including absences that may be a result of a disability other than a compensable illness or injury. These absences are subject to Attendance Review. (See Procedure, Management of Innocent Absenteeism).

Culpable or Blameworthy Absenteeism: Absence from work due to factors within the employee's control. Culpable absenteeism includes failure to notify, absences without leave and abuse of leave. Culpable or blameworthy absenteeism problems may be grounds for discipline, up to and including termination.

Approved Absences: Absence from work to which an employee is entitled by law or in accordance with the terms of the Collective Agreement or which may be granted subject to management approval. Such approved absences include absences in accordance with the Workplace Safety and Insurance Act, vacation, bereavement leave, jury/witness service, pregnancy leave, parental leave, ill dependant days, legal strike, lay-off and such other absences as management may determine.

Application:

This policy applies to all employees except for probationary employees.

Applicable Legislation:

Both the Human Rights Code and Workplace Safety and Insurance Act have applicability to attendance management. Both statutes address the inter-related issues of absenteeism, disability and accommodation.

The Human Rights Code defines handicap as "...any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness...". However, not all absences due to illness or sickness fall within the definition of handicap. For example, it is generally held that "illness" in the context of the Code does not apply to illnesses of a temporary nature, such as colds or the flu.

The Code's definition of handicap also includes an illness or disability for which benefits are claimed or received under the Workplace Safety and Insurance Act. Section 41 of this Act defines re-employment obligations that apply to injured workers.

Conditions:

Each department will determine the average number of occasions of absence (day/shift or part thereof) for each division. These will be the initial standards used for attendance review. A departmental average may be used where differences among divisions are insignificant.

In determining the average for the purpose of the attendance management policy, the following absences should be included:

- (i) ill with pay;
- (ii) ill without pay;
- (iii) accident no credit (ex. WSIB denials); and
- (iv) ill, no deduction (employee leaves workplace due to illness; no deduction from sick bank).

The average absenteeism should be defined in terms of the number of days or shifts for the division/department for one year.

Employees whose attendance pattern shows that their total absences were greater than the standard for the division/department, will have their attendance reviewed.

Procedure:

It is the responsibility of all departments and managers to ensure the consistent application of the Attendance Management Program Policy. In conducting the Attendance Review, the manager should first determine whether the absences are defined as "Innocent or Non-Culpable", or "Culpable or Blameworthy" or "Approved" and the applicability of disciplinary and non-disciplinary measures.

When an employee fails to comply with reporting or timekeeping rules, his/her manager will meet with the employee to determine the reasons.

When the manager determines there was a satisfactory reason for the failure to comply, the behaviour is deemed non-culpable.

When the manager determines that the reasons are unsatisfactory, the behaviour is deemed culpable, the manager will deal with the situation as a disciplinary matter.

The Administration Committee also submits the following report (June 28, 2001) from the Commissioner of Corporate Services:

Purpose:

At its meeting of June 18, 2001 the Personnel Sub-Committee in considering the Attendance Management Program, requested the Commissioner of Corporate Services to:

- (1) report to the Administration Committee on the relationship between the Attendance Management Program and the disciplinary methods for culpable absenteeism; and
- (2) to meet with representatives of Local 79 and Local 416 prior to the Administration Committee meeting of July 3, 2001.

Comments:

- (1) The Attendance Management Program recommended for the city addresses the management of innocent absenteeism (non-culpable). These are absences from work due to illness or non-occupational injury. Supervisors' responsibilities under the Attendance Management Program include regular communication with the employee, assistance in return to work and maintenance of records. In the meetings with the employee the supervisor provides an opportunity to discuss the reasons for the absences and identifies resources for assistance including Employee Health and Rehabilitation and Employee Assistance. It is no a disciplinary meeting.

Culpable absenteeism refers to absences from work due to factors within the employee's control including failure to notify, absences without leave and abuse of leave. Unlike innocent absenteeism culpable absenteeism is dealt with as a disciplinary matter. This is a different process following the steps of progressive discipline. Information obtained in the disciplinary meetings may identify the need for a referral for assistance in this process as well.

(2) City staff met with Local 79 on June 25, 2001 and with Local 416 on June 28, 2001 to discuss the issues and concerns raised in their correspondence and deputation (79).

City staff provided additional information and answered questions on the background, application and implementation of the policy.

Local 79 and Local 416 re-stated their opposition to such a program.

There are no recommended changes to the proposed Attendance Management Program as a result of these meetings.

Contact:

Alison Anderson
Director, Employment Services
Tel: 416-392-5028
Fax: 416-392-3920
e-mail: aanderson@city.toronto.on.ca

The Administration Committee reports, for the information of Council, having also had before it the following communications:

- (i) (July 3, 2001) from the National Representative, Toronto Civic Employees' Union, CUPE Local 416 forwarding comments respecting the proposed Attendance Management Policy; and
- (ii) (June 29, 2001) from the President, CUPE Local 79, advising that they have met with the Director of Employment Services to explain their concerns with respect to the Attendance Management Program, and continue to find aspects of the Program objectionable; that they will reserve their right to raise disagreements with this policy in other forums; and where necessary, will invoke the appropriate provisions of the collective agreements to ensure the protection of the employment interests of individual Local 79 members in particular circumstances.