



Absence Management and Occupational Health Service Terms and Conditions

1. Definitions

- Towers Watson Limited (trading as “**WTW**” and referred to as “**we**”, “**our**” and/or “**us**” in these terms) operating from The Courtyard, Hall Lane, Wincham, Northwich, CW9 6DG, shall perform the Absence Management and Occupational Health services (the “**Service**”), through its panel of experienced in-house Occupational Health Physicians, Occupational Health Advisers, Registered General Nurses, Third-Party Network Occupational Health Physicians and other Third-Party Clinical Providers.
- The employer, pension trustee or other authorised person (“**you**” or the “**referrer**”) is the party requesting the Service required for an employee or pension member (the “**referred**”)

2. Supply of the Services

- The Services are listed in the Absence Management and Occupational Health Cost Guide which may change from time to time
- The Cost Guide, referral and consent forms can be downloaded from our website <https://www.wtw-healthandbenefits.co.uk/occupational-health-reference-documents>
- The **referrer** should complete the referral form and gain informed consent from the **referred**.
- The **referrer** will obtain the signature of the **referred** to any forms submitted to us (including medical consent forms pursuant to the Access to Medical Reports Act 1988 and Access to Health Records Act 1990) and inform the referred of their rights in relation to the same including to refuse to sign. The **referrer** shall obtain any other consents from the **referred** in relation to the Service.
- In advance of us delivering the Service, you will provide us with all information we request (including relevant employment details, concerns or reasons for referral, absence information, medical histories and lists of current medication) and ensure that such information is complete and accurate.
- You will ensure access for us to all information to enable us to perform the Service as needed.
- If GP and/or specialist reports are not included in the referral, and these are material to an Assessment, we will obtain these at additional cost from the practitioners which may lead to time delays in the provision of any such Assessments.

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3. Payment for provision of the Service

- We will send you an invoice once the Service is completed. Fee rates and payment terms are included in the Cost Guide.
- The Price for the provision of the Service is indicated in the Cost Guide. We reserve the right to make additional charges where there are complications in carrying out the Service (for example, exceptional time to review complex medical reports). Payment of the Price will 28 days after the date of receipt of the invoice.
- Where the provision of the Service entails screening or any other medical examination of any of your employees and that employee fails to attend or with less than 5 Working Days' notice to us cancels or alters the relevant appointment you will remain liable to pay the Price for the Service in full.

4. Standards of Quality & Performance

- You will notify us in writing within 10 working days of discovery of any problem with a Service. Any claims in respect of a Service must be notified to us within 14 days.
- The Service shall be carried out using the skill and care expected of experienced Occupational Health Professionals and Accredited Professionals
- Our aggregate liability to you in relation to the provision of each Service shall be limited to the Price payable for such Service.

5. Intellectual Property Rights, Confidentiality & Data Protection

- The intellectual property in all documents created by us in the provision of the Assessments (including copyright and design rights) shall belong to us.
- Except as provided for below, neither party shall during the term of this agreement for Service or thereafter disclose to any third party Confidential Information of the other party which has been disclosed between the parties in connection with the Service without the prior written consent of the other party. "**Confidential Information**" shall mean any and all information, data and material of a technical or business nature or relating in any way to the business, products, services, customers of either party, which the other party may receive or obtain in connection with the operation of this agreement for Services or otherwise and which is expressly identified as confidential or which ought reasonably to be regarded as confidential.
- Each party shall be entitled, but only to the extent necessary, to disclose the whole or part of any Confidential Information:
 - to its officers, employees, servants, agents, professional advisers to the extent necessary to perform or enforce any of its rights or obligations under this agreement for Service subject in each case to the party making the disclosure ensuring that the persons in question keep the same confidential and do not use the same except for the purposes for which the disclosure is made;
 - to such persons as the other party consents to, in writing, subject to the party making the disclosure ensuring that the person in question keeps the confidentiality and does not use the same except for the purposes for which the disclosure is made;
 - to the extent that it is required to do so by law or by any public, quasi-governmental, supervisory or regulatory authority or any court or tribunal;

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- to the extent that the Confidential Information or part thereof was already lawfully in its possession at the time of the disclosure;
- to the extent that the Confidential Information has, except as a result of a breach of confidentiality, entered into the public domain at the time of such disclosure.
- For the purposes of this Clause 5 the following definitions shall apply:
 - **"controller"**, **"data subject"**, **"personal data"**, **"personal data breach"** and **"processing"** shall have the meanings set out in the GDPR.
 - **"GDPR"** shall mean Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
 - **"Clinical Data"** shall mean any Medical Records in WTW's possession or under its control for the purpose of or in connection with the provision of the Service, together with any other personal data or other records in respect of the referreds that are ancillary to the Medical Records and in respect of which WTW is deemed to be clinical custodian or otherwise to owe a duty of medical confidentiality, but excluding any personal data in respect of the referreds contained within any Commissioned Reports where such Commissioned Reports have been shared by WTW with the referrer with the explicit consent of the referred.
 - **"Commissioned Reports"** shall mean any reports regarding the health or physical condition of the referreds prepared by, or on behalf of, WTW by a clinical professional for and at the instruction of the referrer, in the course of the performance of the Service and for employment or insurance purposes.
 - **"Data Protection Legislation"** shall mean any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a party is subject, including the GDPR and the UK Data Protection Act 2018 or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data.
 - **"Data Subject Request"** shall mean an actual or purported data subject request or notice or complaint from (or on behalf of) a data subject exercising his rights under the Data Protection Legislation.
 - **"Medical Records"** shall mean any records in respect of the referreds or arising out of or otherwise connected to the Service that are in WTW's possession or under its control and that the UK General Medical Council or British Medical Authority would classify as medical records.
 - **"Regulator"** shall mean the UK Information Commissioner's Office and any other person in any jurisdiction, which has regulatory or supervisory authority over all or any part of the business or activities of the relevant person.
- Both parties acknowledge and agree that for the purposes of this agreement for Service they each act as an independent controller in respect of the Personal Data, except for the Clinical Data, which WTW shall act as a sole controller of.
- Each party shall comply with its obligations under the Data Protection Legislation. Each party agrees to use all reasonable efforts to assist each other to comply with such obligations as are imposed on them by the Data Protection Legislation. Neither party shall, by its acts or omissions, cause the other party to breach its respective obligations under the Data Protection Legislation.
- Notwithstanding the generality of the foregoing, both parties shall adhere to the requirements regarding the security of personal data, as set out in the Data Protection Legislation (including, in particular, and, as appropriate, the measures set out in Article 32(1) of the GDPR (taking due account of the matters described in Article 32(2) of the GDPR)).

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- WTW may provide management information as agreed with the referrer but will only provide such information in anonymised form to the extent that it will not constitute personal data.
- Each party shall notify the other promptly following its receipt of any Data Subject Request or correspondence from a Regulator, which relates directly or indirectly to the other party's processing of personal data (excluding the Clinical Data) in connection with the Service, or to either party's compliance with the Data Protection Legislation, and, where permitted by applicable law, together with such notices, shall provide a copy of such Data Subject Request or Regulator correspondence and reasonable details of circumstances giving rise to it. In addition to providing the notice referred to in this Clause 5, each party shall provide the other party with all reasonable co-operation and assistance required by it in relation to any such Data Subject Request or Regulator correspondence.

6. Ethical Business Practice

- We do not tolerate unethical behaviour either in our own activities or in those with whom we seek to do business. We will comply with all applicable laws, rules, regulations and accounting standards. In particular, we comply with the requirements of all applicable anti-slavery legislation. We also shall not take any action which facilitates the evasion of taxes anywhere in the world or which is contrary to any applicable tax evasion facilitation legislation (including, but not limited to, the UK Criminal Finances Act 2017).

7. Governing Law & Jurisdiction

- These terms are subject to English law and any dispute arising out of or relating to the terms shall be resolved by the Courts of England and Wales.

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