

Protocol between the employer/employee organisations
and the authorities for a joint effort to prevent and
reduce sick leave and promote inclusion

24 February 2010

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A good, inclusive working life is at the heart of the Norwegian welfare state. Fewer people on long-term sick leave or disability, and greater opportunities for seniors or those with reduced functional ability to find work are key factors in enhancing individual quality of life. At the same time, this will help ensure that enterprises in both the public and private sectors will have sufficient supply of labour, as well as a prudent development in national insurance expenses.

For some people, working during sickness will not be possible. For others, working full or part time could actually promote health, while passivity can prolong sickness. Therefore, the parties agree on the goal of greater use of graded (partial) sick leave in the case of sickness.

On this basis, the authorities, employers and employees agree that there is a need for a stronger joint effort to achieve the goals of preventing sick leave, increasing return to work and preventing expulsion and withdrawal from working life. There is a need to ensure compliance with regulations, and that follow-up by all players is carried out in line with agreed framework.

Continuation of the objectives of the IA agreement

- 20 per cent reduction in sick leave compared with the second quarter of 2001. On a national level, this means that sick leave should not exceed 5.6 per cent.
- Increased employment of people with reduced functional ability. Specific goals from earlier supplementary agreements will be continued.
- Active employment after age 50 to be extended by six months. This means an increase in the average period during which people (over age 50) are actively employed, compared with 2009.

The results of the three secondary goals must be viewed in context. Goal achievement depends on the interaction between all players: employees, employers, safety delegates, company health services, employee representatives, the Norwegian Labour and Welfare Service, the Norwegian Labour Inspection Authority, the person granting sick leave and the health service.

We agree that the following should be implemented:

Person granting sick leave

There is a need for greater emphasis on activity, return-to-work efforts and follow-up to curtail absence due to illness. The person granting sick leave should work with the individual person on sick leave to emphasise his/her ability to work and activity so as to maximize the use of graded (partial) sick leave. Activity on the part of the individual employee must be emphasized.

- a) A collaboration will be started among the relevant authorities (the Directorate of Health, the Norwegian Labour and Welfare Service, the Norwegian Medical Association, the Norwegian Physiotherapist Association and other relevant expert communities with the aim of drawing up proposals for professional support/guidance in the work surrounding authorized sick leave in relation to various diagnoses and ailments/conditions.
- b) To support the follow-up of a new professional basis for decisions in the work surrounding authorized sick leave, a system will be introduced which requires regular feedback to the person granting sick leave on his/her own practices, compared with others.
- c) Training in authorized sick leave work and practices will be required for everyone with the power to authorize sick leave.

Early efforts

Accelerated "check points" in the course of authorized sick leave:

- Follow-up plans must be prepared by the employer in cooperation with the employee after no more than four weeks.
- The employer must send the follow-up plan to the person granting sick leave as soon as it has been drawn up, after no more than four weeks.
- Dialogue meeting 1 under the direction of the employer must be carried out for everyone on authorized sick leave (also partial), within eight weeks at the latest.
- The person granting sick leave must participate in dialogue meeting 1 in accordance with Section 25-5 of the (Norwegian) National Insurance Act, upon summons from the employee or employer. Nevertheless, the person granting sick leave shall not be called in if the employee does not want this, and the employer must consult with the employee before calling in the person granting sick leave. Participation by the person granting sick leave will provide a better basis for evaluating the need for and benefit of full or partial sick leave. The person granting sick leave can also contribute to a better dialogue in which assessment of the ability to work will be a significant element. The diagnosis of the person on sick leave must not be discussed in the dialogue meeting. The employee representative/safety delegate can take part in the meeting, if the employee so wishes.

- If the enterprise has a company health service, it shall participate in dialogue meetings at the workplace.
- Dialogue meeting 2 under the direction of the Norwegian Labour and Welfare Service must be carried out no later than after 26 weeks. The Norwegian Labour and Welfare Service, the employee, the employer or the person granting sick leave can take the initiative to call for dialogue meeting 2 at an earlier point in time.
- In order to avoid a passive sick leave period, the company shall implement internal occupational rehabilitation and work adaptation measures at an earlier point during the sick leave period, and this shall be a required topic at dialogue meeting 2. In this context, work adaptation measures can also include measures to enhance competence.
- A dialogue meeting 3 can be held at the end of the qualifying period for sickness benefit.
- The active sick leave scheme will be discontinued.

Facilitation, participation and affiliation

To support a more stringent requirement for return-to-work strategies and activity, particularly in connection with increased use of graded (partial) sick leave, it is emphasized that the employer must facilitate work for the individual person on sick leave, and that the employee must contribute through participation and follow-up of the activity obligation. Under the Working Environment Act, the employer's facilitation duty is currently quite extensive. If an employee has suffered reduced ability to work as a consequence of accident, illness, strain/fatigue, etc., the employer must, insofar as possible, implement necessary measures so that the employee can retain or be assigned suitable work. The facilitation duty applies regardless of whether or not the need for facilitation is connected with the work, and without regard for whether the reduced ability to work is temporary or more lasting in nature.

Facilitation and follow-up presumes that employees follow up their participation duty under the Working Environment Act, and their activity duty under the National Insurance Act. One of the important intentions of these rules is to bring employees on sick leave back to work, and to prevent withdrawal and permanent expulsion from working life. If it proves that the person's ability to work is permanently reduced, there is a further facilitation duty under Section 4-6 of the Working Environment Act and Section 12 of the (Norwegian) Anti-discrimination and Accessibility Act. The parties agree that there is a considerable potential for improved facilitation in many enterprises.

The parties agree that employers and employees should also facilitate affiliation activities to maintain good contact with employees during long-term sick leave. Alternatively, work opportunities in other enterprises can be utilized when the employer and employee do not find a basis for facilitation in their own enterprise (for example IA jobs).

The central federations will jointly assume responsibility for preparing and actively using a tool to help the enterprises with facilitation work.

Sanctions

The rules on sanctions in relation to all players in the event of violations of regulations will be reviewed and strengthened as a policy instrument in the overarching work on sick leave.

New model for employers' co-funding of the sick leave benefit scheme

The Expert Group that examined measures for reducing sick leave proposed a change in the employers' co-funding, cf. the report dated 1 February 2010. The parties agree that a change in co-funding in line with the principles outlined by the Expert Group could contribute to stronger follow-up and facilitation by employers of employees on long-term sick leave, and could help ensure that graded (partial) sick leave becomes the main rule. The parties agree that a change in line with the Expert Group's proposal must take place in such a way that enterprises and employees are assured good follow-up. The exemption scheme will also be considered in this connection. The parties will revert to this issue during the course of this year. The current arrangement will be continued unless the parties agree otherwise during the term of the agreement, cf. the IA Agreement of 24 February 2010.

Other measures

Compared with the current arrangement, the parties expect preventive work and sick leave and facilitation work to have a sharpened focus on HSE training for the senior supervisor, the safety delegate service, line managers and employee representatives.

The parties will cooperate on developing and implementing the Government's employment strategy for people with reduced functional ability. Reference is also made to the Government's action plan entered into with the central federations for a joint effort to promote equality and prevent ethnic discrimination.

The parties agree to continue the recent years' commitment to senior policy, so that more seniors are motivated to stay at work longer. The pension reform will be implemented in line with the Storting's (Norwegian Parliament's) pension compromises. Reference is also made to the work on senior policy being done under the direction of the Senior Policy Centre.

A new IA agreement has been signed today, with greater emphasis on the specific prevention and facilitation work done in the individual enterprises. The use of policy instruments in the IA Agreement has been simplified and made clearer in line with the fact that the agreement

governs the framework conditions that apply to the IA enterprises. The authorities and the parties are both concerned with carefully monitoring the development in the secondary goals under the IA agreement, as well as the use of policy instruments. Therefore, they have agreed that the developments will be discussed in the Council for Working Life and Pension Policy once every half-year.

The authorities will continuously consider whether it is expedient to implement various types of trials to examine the effects of new measures that can contribute to better achievement of the three secondary goals in the IA Agreement. The authorities will also continue to make funds available for trial activities under the direction of the Norwegian Labour and Welfare Service.

There is a need to reinforce and ensure compliance with the existing regulations, and that the follow-up is in line with the requirements set. The parties are in agreement that an evaluation of goal achievement, and of whether the measures in the protocol and the IA Agreement have been carried out and implemented satisfactorily, must be carried out before the end of 2013.

The parties agree on the need to obtain a better understanding of the driving forces behind the development in sick leave, expulsion and withdrawal/deficient inclusion in working life. Among other things, it is important to better understand possible links between sick leave and participation in the work force on the part of persons with reduced functional ability and older employees.

The Council for Working Life and Pension Policy will discuss a potential collaboration to establish a centre for work attendance and inclusion. The centre can help achieve objectives such as development of analyses and gathering experience, spreading information and carrying out campaigns, etc.

Progress

- The central federations' cooperation to develop a common tool for facilitation work in the enterprises will be established immediately, with a view towards completion by 1 January 2011.
- A system for mandatory training for persons granting sick leave, as well as a system for systematic feedback to the individual physician regarding his/her sick leave authorization practices, will be drawn up during the months up to 1 January 2011, and will then be implemented.

- Regulatory work will be initiated with the aim of amending the Working Environment Act and the National Insurance Act in line with this protocol, including moving check points, discontinuing the active sick leave scheme, physician participation in dialogue meetings and mandatory training for persons granting sick leave, with a view towards implementing most of the changes on 1 July 2011.
- Cooperation will be established immediately between the affected expert sectors to develop professional support/guidelines for persons granting sick leave. The resulting proposals must be submitted to a broad-based consultation process. The intention is to be able to start to use the first expert guidelines around 1 July 2011.

Oslo, 24 February 2010

Translator's note: Signed by representatives of the following entities:

The Government, represented by the Minister of Labour

Confederation of Norwegian Enterprise

Norwegian Confederation of Trade Unions

Federation of Norwegian Commercial and
Service Enterprises (HSH)

Unio

Spekter (employers' association)

Federation of Norwegian Professional Associations

Norwegian Association of Local and
Regional Authorities (KS)

Confederation of Vocational Unions

The Norwegian State as employer, represented by the
Ministry of Government Administration, Reform and Church Affairs