

**Information  
on prevention talks  
§ 167 of the German Social Code (SGB) IX**

**1. General information**

The general objective of occupational prevention as integration management is to maintain and promote employees' ability to work and employability and to help prevent the development of chronic illnesses and disabilities, and ultimately dismissal due to illness. It does not serve to discipline employees, but rather to help and support them through well-planned and effectively implemented employment protection and promotion measures.

At an early stage, it should first be clarified in a prevention talk whether preventive measures can be implemented that are suitable for protecting and promoting the employee's ability to work and employability in the long term. According to the legal provisions of the SGB IX, this talk should take place where "employees are unfit for work for more than six weeks continuously or repeatedly within a year" (cf. § 167 Para. 2 of the SGB IX).

In this case, the employer clarifies whether preventative measures are an option, in "prevention talks", which follow a set format and focus on preventive measures, especially when it comes to the prevention of chronic illnesses.

**2. Parties involved**

In accordance with the legal regulations, the employer clarifies together with the relevant employee concerned the options available for overcoming their incapacity to work as far as possible and which services or assistance can be leveraged to help prevent them from becoming unfit for work again and safeguard their job. The relevant staff council representative, and in the case of severely disabled persons also the representative body for disabled persons are also involved in this process.

In an initial prevention talk, it first needs to be clarified whether in the individual case, measures taken by the employer will help prevent any future incapacity to work.

**3. Voluntary nature**

Prevention talks require the consent and participation of the employees concerned. This means that prevention talks are voluntary. Employees are therefore not obliged to attend such talks.

However, if the person concerned does not attend a prevention talk, the employer may not be able to put into place any measures to prevent their occupational incapacity to work. Under certain circumstances, this means that the employer will be able to terminate the employment relationship if the incapacity to work continues.

**4. Possible follow-up discussions**

It is often evident at an early stage that further experts will need to be consulted as part of the talks to assess the individual case in question. This can be the local shared service centres, the Integration Office or the university doctor.

Further discussions or examinations may subsequently be necessary, to which separate invitations will be issued if necessary.

**5. Confidentiality**

The content of the prevention talks is subject to the strictest confidentiality. However, the outcomes of the talks may lead to the need to take measures in the workplace of which colleagues will inevitably be or become aware. In addition, supervisors also often need to be informed of necessary changes in the working environment.

In any case, the outcomes of the prevention talks must be discussed with the staff council as well as with the representative body for disabled persons. Paderborn University therefore recommends its employees involve these interest groups in prevention talks.

## 6. FAQs

### ***Warning/dismissal***

Can my employer give me a warning or dismiss me for incapacity to work?

No they cannot give you a warning, as warnings can be given only for breaches of contract or duty. Absences due to illness do not generally constitute a breach of contract, as employees usually have no influence over this.

Dismissal due to sickness-related absence is basically possible under certain conditions where university or external preventive measures are unsuccessful. The aim of prevention talks and operational integration management is to avoid these consequences in advance.

### ***Medical confidentiality***

Do I have to release my attending doctors from their duty of confidentiality if my employer demands this?

No, employees are not obliged to provide information about their state of health, nor do they have to release their doctor from their duty of confidentiality.

### ***Diagnosis***

Do I have to inform my employer about the cause of my incapacity to work?

No, only your health insurance company will receive your diagnosis from your doctor. However, you must always inform your employer if you are unfit for work due to an accident because of the examination of recourse claims. Nevertheless, during your prevention talk, you will be given the opportunity to voluntarily discuss the medical causes of your incapacity to work.

### ***State of health***

Do I have to answer any personal questions or questions about my state of health in a prevention talk with my employer or supervisor?

You do not need to answer any questions about your state of health, private habits, commitments or plans.

### ***Measures***

What general measures can be considered in the context of case management?

- Risk and workplace analyses
- Occupational medical or psychosocial advice
- Designing work to meet the needs of people, the disabled and the elderly
- Individual job design  
(preventive and rehabilitative – workplace, working environment, working time, work organisation)
- Individual workplace-related health advice
- Health training
- Gradual reintegration
- Workplace relocation

7. Your contact person

The technical and administrative staff council or scientific staff council The representative body for disabled persons

Your responsible HR representatives in Department 4 - Human Resources department -

The employer's representative for the affairs of severely disabled employees

**Please contact us – we'll be more than happy to help!**