



# **Attendance Management Procedure**

**Human Resources & Organisational Development**

## **Attendance Management Procedure**

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# **Attendance Management Procedure**

## **1. Introduction**

The Attendance Management procedure provides a framework for Managers to proactively manage sickness absence – both short and long-term.

The aim of the procedure is to encourage improvement, support employees to improve their health and well being and facilitate the employee's return to work.

There is an informal element to the procedure which allows concerns about attendance to be raised and provides employees with the opportunity to improve.

It also sets out the formal steps that should be taken if an employee's level of attendance continues to fall below the standard expected of the Council.

## **2. Roles and Responsibilities**

Managers may on occasions need to seek advice and work closely with Human Resources, Occupational Health and Trade Unions to attempt to reach a successful outcome for the Council and the employee.

Health, Safety & Resilience representatives will provide legislative and practical advice and guidance to managers and Human Resources to support the management of sickness absence cases.

The Occupational Health Service will provide independent medical advice and support to employees and managers to facilitate effective attendance management, in accordance with the service contract in place with the Council.

Trade Unions have an important part to play in providing advice and support to an employee and to facilitate a way forward, working in partnership with managers in minimising sickness absence in the Council. At all stages of the formal procedure employees are entitled to be accompanied by either a Trade Union representative, or a colleague.

Managers have a responsibility to:

- Ensure employees are aware of the Attendance Management policy and procedure.
- Promote a positive attendance culture and exercise a duty of care towards employees in providing a healthy and safe environment in which to work.
- Manage sickness absence issues and maintain contact with an employee who is absent from work.
- Be proactive and explore prevention and intervention measures that could assist employees to attend work through the Fit4Wirral framework.
- Ensure that employees are capable to undertake the duties and demands assigned to them to aid the prevention of stress related sickness absence.

- Record all periods of sickness absence and ensure that all associated documents/evidence are documented and stored appropriately.
- Monitor sickness absence levels in their teams, deal promptly and appropriately with concerns about attendance levels and seek to find solutions in consultation with the employee.
- Consider the circumstances of each sickness absence case and make fair and reasonable decisions.

Human Resources & Organisational Development are responsible for:

- Monitoring and reviewing the Attendance Management policy and procedure.
- Providing advice and guidance to managers to ensure that the Attendance Management policy and procedures are applied fairly and consistently.
- Supporting managers in respect of individual cases and identifying options and solutions for ensuring the maximum attendance of employees.
- Advising Managers on appropriate employee support interventions to prevent sickness absence and/or enable employees to return to work as soon as possible.
- Providing sickness statistics to Departmental Management Teams.
- Advising, briefing and training employees, managers, and trade union representatives, where appropriate, on all aspects of improving attendance, and to ensure compliance with this procedure.

Employees have a responsibility to:

- Comply with the Council's attendance standards as outlined in the Attendance Management Procedure.
- Report any sickness absence promptly in line with the reporting procedure.
- Keep in touch throughout any period of sickness absence.

### **3. Reporting Sickness Absence**

It is fundamental to the relationship between an employee and the Council for an employee to make their line manager aware if they are unable to attend work. All employees are responsible for notifying their line manager on their first day of absence.

If an employee fails to follow the procedure for reporting absence without good reason this may be dealt with under the Council's disciplinary procedure.

#### **Day One**

Employees must notify their immediate line manager or designated person on the first day of their absence at the earliest opportunity, but no later than one hour after they would normally start work. This should be by a telephone call from the employee personally unless there are exceptional circumstances that prevent this. Notification by text or e-mail is not acceptable.

Service areas that operate outside normal working hours may put in place different reporting arrangements so that there is sufficient time for a line manager to arrange cover. This will be communicated to all employees within these service areas.

It is imperative that the employee speaks directly to the line manager on the first day of absence. If the line manager is not available, a message must be left, with a contact number so that the line manager can make contact if this is required.

### **Alternative arrangements for reporting**

If the employee does not have access to a telephone they must agree an alternative method of notifying the line manager of their absence as part of induction and supervision, which should be documented by the line manager and recorded on the employee's personal file.

In some cases an employee may request that alternative arrangements are made for notification e.g. a female member of staff may feel more comfortable speaking to another female.

### **The notification call**

When making or receiving a notification call a line manager will ask the employee the following so that they can understand the cause of sickness and provide appropriate support:

- The nature of the illness.
- When the illness started (day and time).
- What the employee has done to alleviate symptoms.
- Whether the employee is seeking medical advice.
- Whether the employee requires access to any of the Council's support mechanisms such as the Employee Assistance Programme.
- The probable date of return (date, day and time).
- What work is outstanding/to be covered and any scheduled meetings that need to be covered or cancelled.
- Arrangements for next contact if no return to duty.

### **Self Certification (Absences up to 7 days)**

An employee can self certify their absence up to 7 days.

During the first 7 days of the sickness absence the employee should contact their line manager regularly, unless alternative arrangements are made between the line manager and the employee, so that managers are able to manage operations in the employee's absence.

### **MED3 - Fit Note (Absence greater than 7 days)**

If the period of absence continues beyond seven calendar days the employee must submit a MED3 (Fit Note), which should be received no later than three working days after the period of self certification has expired. Where an employee submits

successive MED3 notes, they must send the new note within three working days of the expiry date of the previous MED3.

Employees who require a medical certificate should ensure that they have a medical certificate covering the entire period of their absence. Where the employee remains off work, they should ensure that the medical certificate is sent to their line manager. The employee must ensure that their line manager is in receipt of an up-to-date medical certificate throughout their period of absence.

The MED 3 (Fit Note) advises if the employee is either:

1. 'Not fit for work'
2. 'May be fit for work' (taking account of advice from the doctor)

The purpose of the Fit Note is to potentially remove any challenges that may be preventing the employee from returning to work, if adjustments can be made to accommodate this. Managers and employees must work together to find an arrangement that suits both parties as there are mutual benefits in doing so.

Please refer to the 'People' area on the Intranet for guidance on implementing recommendations from a Fit Note. Training is also available from the Organisational Development team.

### **Compliance with the Reporting Procedure**

Failure to comply with any of the above conditions without previous agreement or good reason may be considered as an unauthorised absence and will be dealt with immediately. In some circumstances it may result in the loss of pay or action under the Council's Disciplinary procedure.

## **4. Recording Sickness Absence**

The manager is responsible for recording every absence on Selfserve. This is important for payroll and performance reporting requirements. For further information please refer to the Manager's Guidance.

## **5. Keeping in Touch**

Both employees and managers have a responsibility to maintain regular and appropriate dialogue throughout a period of absence. Managers should record all contact, receipt of associated documents and decisions made in relation to the sickness absence on the 'Keeping in touch form' (appendix ?)

For both short-term and long-term absences, employees must inform the line manager when:

- **They are fit to return to work** - this may be different from when they will return to duty if, for example, the employee is on a rest day, it is the weekend or they are due to take annual leave.

- **When they intend to return to work** – this should be at the earliest possible opportunity but as a minimum must be the day before they are returning to work so that their line manager does not arrange unnecessary cover.

During the first 7 days of the sickness absence the employee should contact their line manager regularly.

In cases of long-term absence it is particularly important that regular contact is maintained between the line manager and the employee through welfare visits and telephone contact. Employees may become isolated from the workplace unless there is regular contact and support.

The level of contact should be appropriate to the circumstances and not intrusive but it's expected that, as a minimum, contact should be fortnightly, unless alternative arrangements are agreed between the line manager and the employee.

Line managers should ensure that any in-house news information, employee newsletters etc are sent to the employee as part of this contact. However, it is acknowledged that this may not be appropriate in some circumstances.

All contact with the employee should be recorded on the Keeping in Touch Form.

### **Welfare Visits**

Line managers should normally make arrangements for a welfare visit to an employee after 4 weeks continuous absence. The welfare visit can take place at an employee's home or a mutually agreeable location. The purpose of the visit is for the line manager to establish what progress the employee is making and any further assistance to facilitate their return to work.

After the first visit, Welfare Visits should be undertaken every 6 weeks.

Welfare Visits must be recorded on the Keeping in Touch Form

In exceptional circumstances, the employee and the line manager may agree that welfare visits are not appropriate and agree alternative methods of maintaining contact.

If required or requested by employee or manager, it may be appropriate for another person to be present during a home visit.

Line managers should refer to Appendix 1 for the procedure for conducting a welfare/home visit.

## **6. Referral to Occupational Health**

The Council's Occupational Health Service may be used to help line managers establish whether there are any underlying problems that are contributing to an



employee's intermittent absence, or in cases of long-term absence, likely prognosis of absence and support that should be provided to assist the employee.

Referrals may be made even if an employee is not absent from work but there are concerns over their health and well-being.

If an employee is absent from work due to any mental health absence, including stress, the manager must make a referral to Occupational Health on the first day of absence.

The line manager has a responsibility to ensure that an employee is made aware that a referral has been made and the reasons for it. This is important as an employee should not receive an appointment from Occupational Health without any prior indication.

Before referring an employee to Occupational Health, the line manager should be clear about what information they wish to gain from the referral and include this in the Occupational Health Referral form (M31). Line managers may discuss a referral with Human Resources.

Through the referral the line manager may seek advice on:

- If the employee is fit to undertake duties of their current post (s).
- If any treatment is required and expected time period for recovery.
- Likely return to work date.
- If a period of phased return is advised.
- Whether the employee has a disability within the meaning of the Equality Act and if any reasonable adjustments or redeployment should be considered.
- What support or management intervention may assist an earlier return to work.
- Whether the employee meets the criteria for Ill Health Retirement as set out in the Local Government Pension Scheme.

## **7. Return to Work Interview**

A Return to Work Interview is required for all absences. The purpose of the Return to Work Interview is to welcome the employee back to work, discuss the reasons for the sickness absence and consider what support may be appropriate.

It is also the first stage in managing an employee's short-term absence. One of the aims of the Return to Work Interview is to establish whether there are any underlying problems that are causing the absence, and discuss whether the employee requires further support to improve their attendance level. In longer-term absence, the Return to Work Interview is critical in assisting the employee to return to work as smoothly as possible and to discuss any relevant issues that may support that transition. Returning to work after a long-term absence can be difficult and line managers should commit time to ensuring the employee feels supported. Depending on the nature of the absence managers should consider whether a risk assessment is required and/or if

any reasonable adjustments are necessary. These should be discussed with the employee as appropriate.

In long-term sickness cases, an employee is likely to have accrued annual leave during the absence. As part of the Return to Work Interview, line managers should ensure that the employee is aware of this and there should be a discussion as to how the outstanding leave may be managed in accordance with the Council's policy. See Section 13 - Annual Leave and Sickness

After every absence, irrespective of the duration, a Return to Work Interview will be conducted when an employee returns to duty and should normally be no later than three days after the return to work and recorded on the Return to Work Interview form and logged on Selfserve. Line managers should also consider whether a Risk Assessment (form M34) should be undertaken. Please refer to the 'People' area of the Intranet for guidance.

It is a Line manager's responsibility to undertake the Return to Work Interview. This will be monitored by Human Resources.

The Return to Work Interview Form and Guidance are available on Council's intranet (See also Appendix 2)

## **8. Addressing Concerns about Absence**

This section provides guidelines for line managers who have concerns about an employee's level of absence.

### **Informal Action**

It is a principle of the Council's policy that an employee is advised that their attendance is a concern before formal action is taken.

As part of the Return to Work Interview, or in a separate meeting if required, a manager must inform an employee if they have concerns about their levels of attendance and/or if further absence within a specified period will mean they will breach one of the triggers in the Council's policy (see below).

The Manager should:-

- Point out the impact of the individual's absence on their work and their colleagues and encourage improvement.
- Explore any work, disability, welfare or domestic problems underlying the absence.
- Explore different working patterns (if appropriate).
- Ensure the employee clearly understands what improvement is required, how their performance will be reviewed and over what time period.

- Advise the employee that if their attendance does not sufficiently improve, or if any improvement is not maintained, they would move to the formal procedure and ultimately they could be dismissed on grounds of sickness absence capability.

As part of the informal action, the line manager may consider the following:

- **Referral to Occupational Health**

In cases of short-term (intermittent) absence Occupational Health could be used to help the line manager establish whether there are any underlying problems that are contributing to an employee's intermittent absence. This would be appropriate in cases where the cause of absence is reoccurring.

- **Reasonable Adjustments**

If an employee has a medical condition that may fall within the definition of disability under the Equality Act, the line manager should complete a risk assessment (form M34) with the employee to identify whether any reasonable adjustments can be made to assist in improved attendance. Line managers may seek advice from Occupational Health and/or Human Resources on these issues. Information on reasonable adjustments is available on the intranet.

- **Alternative Working Patterns**

The line manager and employee should consider if the employee's level of attendance may be improved through a change in working pattern (if this can be achieved).

The employee should be advised what the next stages of the procedure is should there be no improvement in their attendance levels.

### **Absence Triggers**

The Council has absence triggers which indicate when levels of absence may be a concern and line managers may need to review an employee's absence levels.

The absence triggers are as follows:

- 3 separate periods of absence of up to 3 working days within any 6 calendar month period

**Or**

2 separate periods of absence over 3 working days within any 6 calendar month period **Or**

- Long term sickness (20 continuous working days or more)

**Or**

- Concerning patterns of absence

It is a line manager's responsibility to monitor an employee's level of absence and if the above triggers are met to take appropriate action to ensure that the employee is aware of concerns and is clear about the standards required.

### **Unauthorised Absence**

The Council may consider taking formal action under the Council's Disciplinary Policy for any period of unauthorised absence. These include:

- When an employee has been absent and not submitted a medical certificate
- Failure to report an absence from work
- Failure to follow sickness absence reporting procedures

Under these circumstances the Council may consider suspending occupational sick pay and /or take disciplinary action for failure to comply with the sickness absence reporting procedures.

## **9. Formal Action**

The Council may take formal action against an employee who has an unacceptable attendance record. This may be for short-term, intermittent absence or long-term absence.

An employee will be invited to attend a formal hearing with a manager (at the appropriate level) to discuss their absence record.

Employees should be given a minimum of five days' notice of this hearing. Employees are entitled to be represented at all stages of the formal procedure.

Appendix 3 sets out a summary of the potential formal sanctions that may be applied in the case of sickness absence and at what stage they may be applied.

This procedure and the potential sanctions set out above apply to both short-term and long-term sickness absence cases.

### **Sequence of warnings**

Warnings will normally follow a period of review and should be issued in sequence.

However, in cases of long-term sickness absence, particularly when the employee remains absent from work, it may be appropriate to move to a higher stage of the procedure, without issuing a warning at a lower stage. **As outlined in Appendix 3 a formal hearing must however be held after three months continuous absence.**

It is not within the spirit of the policy or in the Council's or employees' interest for formal action to be taken repeatedly to address an employees' level of attendance, only for further absence once warnings have elapsed.

In such cases, it may be reasonable to consider formal action at the next stage of the procedure.

A line manager must be able to produce a Management Case to evidence that the employee has been given reasonable targets, sufficient opportunity and support to improve their attendance.

Normally warnings on an employee's personal file will be disregarded for the purposes of future warnings. However, in cases where there are concerns about persistent absence following the expiry of warnings they may form part of the management case. This allows an attendance record to be put in context and may allow a line manager to justify a higher stage of the procedure to be applied where appropriate.

### **The Management Case**

At every stage of the process, line managers are required to produce a management case setting out the reasons why formal action under the Attendance Management Procedure is required.

This case should include the following information:

- Employees sickness absence record
- Log of contact during sickness absence
- Dates of Return to Work Interviews
- Dates, notes and outcomes from previous Review Meetings/formal hearings
- Attendance Improvement Plan
- Associated documentation such as occupational health reports, doctors notes

In addition, the line manager should indicate the impact that the absence has had on the workplace for example;

- Impact on Workloads
- Cover arrangements
- Effect on service delivery

This report will be used as part of the formal hearing and should be shared with the employee and/or their representative.

Line managers must ensure the case sets out the clear justification for formal action and contains accurate and up to date information.

In short-term (intermittent) absence, formal action should be taken at the earliest opportunity following the episode of absence that has resulted in the Formal Case being brought forward. It is not reasonable for there to be a delay in a case being brought.

Please refer to Appendix 4 for guidance on Producing a Management Case.

## **Formal Hearing**

There are a number of stages to the Formal Process.

Line managers should refer to Appendix 5 for Guidance on Undertaking a Formal Hearing.

### **Stage 1**

If following the Informal Stage of the procedure, the employee's attendance does not improve or the employee's absence exceeds three months of continuous absence, a formal hearing should take place at which the employee should be informed that their level of absence is not acceptable.

The line manager should explore the reason for the absence and should invite the employee to give their view as to the problem and how such issues might be resolved at the formal hearing.

The line manager will follow the process outlined in the Formal Action Stage 1 Flowchart.

At the end of the hearing, the options open to the line manager are:

- Issue a Verbal Warning which will be live for six months.
- Further period of review.

The line manager will continue monitoring the employee's attendance at work. If the employee improves their attendance but this is not maintained after the expiry of the warning, the line manager will extend the review period for a further three months and may proceed to take formal action in line with the Formal Action Flowchart.

### **Stage 2**

If, following Stage 1 of the procedure, the employee's attendance does not improve or the employee's absence exceeds six months of continuous absence, then a Stage 2 formal hearing should take place at which the employee should be informed that their level of absence is not acceptable.

The line manager should explore the reason for the absence and should invite the employee to give their views as to the problem and how such issues might be resolved at the hearing.

The line manager will follow the process outlined in the Formal Action Stage 2 Flowchart.

At the end of the hearing, the options open to the line manager are:

- Issue a First Written Warning which will be live for twelve months.
- In exceptional circumstances re-issue Verbal Warning.

The line manager will continue monitoring the employee's attendance at work. If the employee improves their attendance but this is not maintained after the expiry of the warning, the line manager will extend the review period for a further three months and may proceed to take formal action in line with the Formal Action Flowcharts.

### **Stage 3**

#### **At this stage the hearing must be undertaken by a Senior Manager (Manager who reports to Head of Service)**

If, following Stage 2 of the procedure, the employee's attendance does not improve or if the employee's absence exceeds nine months of continuous absence, a Stage 3 formal hearing should take place at which the employee should be informed that their level of absence is not acceptable.

The line manager should explore the reason for the absence and should invite the employee to give their views as to the problem and how such issues might be resolved at the hearing.

The line manager will consult with Human Resources and follow the process outlined in the Formal Action Stage 3 Flowchart.

At the end of the hearing, the options open to the line manager are:

- Issue a Final Written Warning which will be live for twelve months.
- In exceptional circumstances re-issue First Written Warning.

The line manager will continue monitoring the employee's attendance at work. If the employee improves their attendance but this is not maintained after the expiry of the warning, the line manager will extend the review period for a further three months and may proceed to take formal action in line with the Formal Action Flowcharts.

### **Stage 4 Consideration of Dismissal**

#### **At this stage the hearing must be undertaken by a Director or their Nominated Officer**

If, following Stage 3 of the procedure, the employee's attendance does not improve or if the employee's absence exceeds twelve months of continuous absence, a Stage 4 formal hearing should take place at which the employee should be informed that their level of absence is not acceptable.

The line manager will consult with Human Resources and follow the process outlined in the Formal Action Stage 4 Flowchart.

The employee should be informed in advance in writing of the purpose of the meeting and advised that it could result in their termination of contract of employment.

Occupational Health advice should be obtained and considered before any decision is taken to dismiss. This is particularly important in long-term sickness absence cases.

Advice should be sought from Human Resources on the provisions of the Equality Act if the employee's inability to attend work is attributable to a disability.

At the end of the hearing, the options open to the Nominated Officer are:

- Dismissal.
- In exceptional circumstances re-issue Final Written Warning which would be live for a further twelve months.

An employee may be fairly dismissed for persistent short-term (intermittent) sickness absence. A dismissal in these circumstances should be for capability, the reason being the Council's inability to cope with the employee's overall level of sickness absence.

For long-term sickness, the reason for dismissal would normally be on the grounds of capability.

Please refer to Appendix 6 for a Dismissal checklist to assist Managers in the decision making process.

### **Employee rights**

During the formal process, an employee will also be entitled to the following:

- Advance notice of the time and date of the hearing (not less than five working days prior to the hearing).
- A copy of the Council's Attendance Management policy and procedure.
- A copy of the sickness absence case report no later than five days before the hearing, unless a shorter period is agreed with the employee or their representative
- An opportunity to present their case at a hearing.
- A right to appeal appropriate to the action taken.

### **Right to be accompanied**

An employee has a right to be accompanied at a formal hearing; the employee can choose one of the following:

- A workplace colleague.
- A recognised workplace trade union representative.

An observer can be present as part of training/development, but only with the permission of both sides. An observer cannot take an active part in the hearing.

The employee may require reasonable adjustments due to a disability and it may be necessary for a companion or support advocate to attend. However, they will usually play a role similar to the observer.

The employee does not normally have the right to be accompanied to Review Meetings or Occupational Health sessions.



Managers should also be aware of any potentially personal or sensitive issues relating to the employee's absence that may be discussed at the hearing and there may be occasions where it may be appropriate for a manager or representative of the same gender to be present or to deal with the case.

### **Alternative Representation**

In exceptional circumstances, consideration will be given to allowing an alternative representative to attend the hearing. In such circumstances, the employee must submit a written request to the Appropriate/Nominated Officer, giving at least five days notice. If an employee attends a hearing with an alternative representative without gaining permission, the hearing may be adjourned and an alternative hearing will be arranged within five working days.

### **Attendance at Formal Interviews**

If the employee is not available to attend the hearing or does not attend when requested without good reason, a decision may be taken in their absence, based on the information available, which may result in a formal warning/dismissal. The Council may also review the employees' continued entitlement to pay if an employee does not comply with this policy.

### **Appeals Procedure**

The employee has the right of appeal at every stage of the formal process. The appeal is to the next level of management.

Where an employee is dismissed they should be advised of the reasons for the termination of contract of employment in writing and that if they wish to appeal against the decision they should do so in writing to the Chief Executive within 10 working days.

Please refer to the Council's Officer Appeals Procedure.

## **10. Managing Long Term Sickness**

***Long-term sickness absence is defined as a period of 20 continuous working days.***

There may be times when employees suffer from illnesses which cause them to be absent from work for longer periods of time. These cases can be difficult to manage and it is important that cases are handled sensitively and appropriately, ensuring that the line manager and employee maintain regular contact throughout a period of sickness.

The Long-Term Sickness Absence procedure has been designed to provide line managers with a framework to proactively manage long-term absence and provide appropriate support to the employee, and in some cases, their family.

The procedure includes a number of review points to ensure that long-term absence is dealt with in an effective and timely manner.

This procedure has been designed to enable line managers to take reasonable steps to address any issues which may be causing absence, in order to seek improvement in attendance.

The cause of the sickness on the Doctor's certificate can give an indication of the seriousness of the illness, and it may help to inform how long the employee may continue to be absent and therefore assist in managing their sickness absence.

### **Key Principles (Managing Long-Term Absence)**

There are a number of key principles that line managers should observe when managing long-term sickness

- Line managers must maintain contact and ensure employees who are absent are supported and do not become isolated.
- There should be regular and timely referrals to Occupational Health to ensure management are updated as to an employee's condition and prognosis.
- Case Conferences should be arranged where appropriate to discuss complex cases.
- Line managers must take formal action at the appropriate time.

The long-term management procedure is outlined in the Managing Long Term Absence Flowchart. It has the following stages:

- Review Points
- Formal Action

### **Review Points**

The purpose of having a number of Review Points is to ensure that line managers proactively manage long term absence and absences do not 'drift'.

They should be used as an opportunity to meet with the employee (where possible), or discuss over the telephone to establish;

- The progress the employee is making.
- Determine any additional support that may be required.
- Consider appropriate action required to manage the sickness absence.

There are four review points within this framework:

### **20 days of continuous absence**

No later than 20 days after an absence commences, line managers will normally refer the employee to Occupational Health to ascertain an independent opinion on an employee's fitness for work.

If it is known that an employee is likely to be absent for more than 20 days then a referral should be completed as soon as this is known and not wait for the four week period to lapse.

Line managers must have maintained contact throughout the four week absence period and where appropriate, a welfare visit should be arranged.

Managers are responsible for ensuring that employees are aware that an Occupational Health Referral is to be arranged.

A summary of the action taken and any decisions made should be recorded on the Keeping in Touch Form.

### **6 weeks absence**

It is important that line managers consider any recommendations from Occupational Health and the employee's MED3 (Fit Note) and discuss these with the employee, either personally at a welfare visit or over the telephone, to determine appropriate action.

A summary of the action taken and any decisions made should be recorded on the Keeping in Touch Form.

### **After 3 months absence**

At this point the line manager will have gained a better understanding of the likely longer-term prognosis of an employee's cause of absence or an idea of a likely return to work date.

At this stage, at least two welfare visits should have been conducted and at least one Occupational Health report should have been received.

The line manager will have arranged a Stage 1 hearing as outlined in the Stage 1 Flowchart and informed the employee, either personally at a welfare visit or over the telephone. The contents of the Occupational Health Report, and any recommendations arising should also be discussed with the employee.

A summary of the action taken and any decisions made should be recorded on the Keeping in Touch Form.

## **After 6 months absence**

At this stage three welfare visits will have taken place and a line manager should have obtained at least two reports from Occupational Health and also be seeking regular advice from Human Resources.

If there are concerns, based on advice from Occupational Health, that there is no prognosis for a return to work or the case is complex, the line manager may wish to arrange a case conference to review an employee's case.

In all cases of long-term absence, a decision on the appropriate options and potential action should be made, in conjunction with a Senior Manager and Human Resources, by the 6<sup>th</sup> month of absence.

Line managers will have arranged a Stage 2 hearing as outlined in the Stage 2 Flowchart and discussed the action to be taken with the employee, either personally at a welfare visit or over the telephone.

A summary of the action taken and any decisions made should be recorded on the Keeping in Touch Form.

## **Case Conferences**

A case conference may be arranged by the line manager for dealing with cases of long-term absence at any stage but **no later than the 6 months**.

The purpose of the case conference will be for the line manager to seek guidance and advice to inform their decision. The case conference may include a range of professionals to provide advice and guidance, for example, Senior Managers, Human Resources, Health and Safety and trade union representatives.

Occupational Health case conferences could be arranged in exceptional circumstances where further clarification is required about how the sickness case may be managed.

## **Phased Return**

The Council aims to support employees to return to work as soon as possible.

On the basis of GP or Occupational Health advice, employees who have been absent from work for a long period may have their return to work assisted through a phased return.

A phased return would not normally exceed two weeks in duration and may include:

- Shorter working days
- Flexible working hours
- Shorter working week
- Alternative duties
- Working from home

The employee would normally be paid their full pay for the duration of the phased return.

If after a phased return an employee requires a further period of reduced hours working, they should seek advice from Human Resources.

### **Redeployment**

In disability related absences, it may become clear that the employee is unable to return to their substantive post but may be able to undertake alternative duties.

In such circumstances, the line manager must obtain specific advice from Occupational Health as to the nature of work that the employee may be able to undertake.

This issue should then be managed under the Council's Redeployment Policy.

This must be fully discussed with the employee and it must also be made clear that as they are unable to undertake their substantive role, should the Council be unable to find a suitable alternative, their employment is at risk.

Consideration of suitable alternative roles can also be vital in ensuring that any possible termination of the employee's contract of employment is handled fairly.

Please refer to the Council Redeployment Policy for further information.

### **Ill-health Retirement**

In cases of long term sickness or if an employee is unable to maintain an acceptable level of attendance due to health issues, at the appropriate time, line managers must ensure that as part of the Occupational Health referral, the employee is assessed as to whether they meet the criteria for ill-health retirement under the Local Government Pension Scheme.

In the case of termination of employment being recommended on the grounds of ill health, the termination date will be agreed following consultation with Human Resources and consideration on the basis of the best interests of the employee and the Council in accordance with the pension regulations.

An Application for Early/Ill-health Retirement (M37) must be completed in all such cases.

Ill health retirement is a dismissal and therefore a dismissal hearing will then take place before employment from the Council is terminated.

See Appendix 7 for further information about Ill-health Retirement

## **Proceeding to Formal Action**

Long-term sickness cases can be difficult and often raise emotional issues for line managers and employees. However, the level of absence from work may reach a point where it is unsustainable and the employee's job may no longer be held open

Given the nature of long-term sickness and the varied forms it may take and differing circumstances surrounding each case, flexibility and sensitivity is required in implementing the procedure.

## **11. Managing Absence for Employees with Disabilities**

The Equality Act 2010 specifically identifies the provision of leave as a reasonable adjustment where a disabled person needs to be absent from work for "rehabilitation, assessment or treatment", (for example the routine assessment of hearing aids, hospital or specialist check-ups including monitoring of related equipment or treatment).

This form of approved absence is not sickness absence and it could be inappropriate and potentially discriminatory to manage it as such. In practice, this form of disability leave can be more appropriately managed along parallel lines with other relevant leave requirements e.g. requirements that pregnant women routinely attend ante-natal appointments, or in terms of relevant flexible working arrangements or special leave arrangements.

It is important to realise that disability is not synonymous with sickness. Confusion can cause offence to many disabled persons who quite rightly do not consider being disabled a 'sickness'. It is recognised that some employees with a disability often have far better attendance records than non-disabled employees.

However, in some instances a person's disability may in practice be associated with some level of sickness absence due to incapacity. For example, an employee with severe asthma or epilepsy who is unable to attend work, due to an attack or seizure, may be absent due to disability-related sickness. However, the period of absence is still recorded as sickness.

In some cases the failure of an employer to provide a reasonable adjustment for an employee may lead to deterioration in the employee's condition requiring absence from work.

The key issue in relation to sickness absence management is that where the effects of a person's disability results in a need to be absent from work due to illness or where a disabled person requires leave which is directly associated with their disability this may need to be accommodated within the terms of the Equality Act.

If disability related absence has caused an employee to breach the Council's triggers, managers must consider carefully whether it is appropriate for a warning to be issued and are advised to seek advice from Human Resources.

It is always appropriate to consider whether it is possible to reduce the extent of disability-related absences through reasonable adjustments. Often a reasonable

adjustment – providing the appropriate equipment, or allowing an individual to work from home or on flexible hours – can resolve the need for absence. Further information about reasonable adjustments is available on the intranet.

It may be that it is not possible to adjust the particular post to enable the absence problem to be resolved. In this case consideration should be given to redeployment. This may be particularly appropriate when dealing with long-term absences.

If the employee is disabled within the meaning of the Equality Act 2010 i.e. they have a physical or mental impairment which has a substantial long-term adverse effect on their ability to carry out normal day-to-day activities, reasonable adjustments must be considered before any recommendation to terminate the employee's contract is contemplated.

If an employee makes a line manager aware that they have a disability or a line manager becomes aware that an employee has a disability it is the line manager's responsibility to undertake a Risk Assessment as soon as practically possible of the employee's job role and work environment. The line manager may need to make reasonable adjustments following the risk assessment. This should be recorded on the Risk Assessment form (M34) and the Record of Reasonable Adjustments form (M34.1), available on the intranet.

Further guidance on Reasonable Adjustments is available on the intranet.

## **12. Employee Assistance Programme**

It is recognised that from time to time employees may struggle with issues either at home or at work.

Sometimes those pressures can have serious consequences on our health and we can become unwell as a consequence.

In order to help employees cope with situations or stresses in their lives, which are affecting their well-being, the Council has introduced an Employee Assistance Programme which allows all employees confidential access to a professional telephone counselling service and to a number of face to face counselling services where this is deemed appropriate by the counsellor.

The service is established as a confidential one and therefore permission need not be sought to make use of it.

Employees who wish to make use of the service may find the details and contact numbers on the 'People' area of the Intranet or through their Manager.

If an employee wishes to attend face-to-face counselling sessions during work time, they should notify their line manager in order that cover can be provided where necessary. If the employee wishes complete confidentiality, counselling sessions should be arranged in their own time.

Line managers should maintain a high level of confidentiality if they have been informed by the employees that counselling sessions are being attended.

The Council will undertake a confidential review of usage at yearly intervals to analyse the number of occasions of use (telephone and face to face) in order to ensure that the service provided continues to meet the needs of the organisation and the needs of the employee).

The review should not involve any personal details of those who have accessed the service, which should be a strictly confidential matter between the employee and the counsellor.

### **13. Annual Leave and Sickness**

The House of Lords Ruling in June 2009 confirmed that employees have the facility to take annual leave whilst absent from work due to sickness. Within the ruling there are particular provisions for situations where employees are unable to take all, or part of their statutory annual leave entitlement for reasons relating to sickness.

All employee requests to take annual leave whilst absent from work due to sickness should be processed through Selfserve as usual. Carry over of annual leave due to sickness absence must be submitted on Selfserve for the manager to approve.

Please refer to the Annual Leave policy on the 'People' area of the Intranet for further guidance. Guidance is also available on Selfserve.

### **14. Other Absence related Matters**

#### **Failure to attend Medical Appointments**

Employees have a duty to co-operate in all medical examinations as part of this procedure.

The employee may be charged for the cost of not attending the medical examination where there is not a good reason for doing so.

If the employee needs to cancel an appointment for any reason, they should seek agreement with the line manager to cancel the appointment at least 48 hours in advance of the appointed date and time, unless in exceptional circumstances.

If the employee is more than 15 minutes late for the appointment then this will be classed as non-attendance at the appointment.

If the employee fails to attend an appointment and does not notify the line manager in advance the line manager should contact the employee to find out the reason for non-attendance.

Under National Terms and Condition of service employees must attend a medical appointment when requested. Failure to do so may result in disciplinary action and/or



the Council may review the employees' continued entitlement to pay if the employee consistently refuses to attend occupational health appointments.

If an employee fails to attend an Occupational Health appointment without good reason, a line manager may need to make a decision about the application of the policy, including issuing of warnings, on the basis of the information that is available.

Please refer to the Occupational Health Appointments Cancellation and Notification of Charges Policy on the 'People' area of the Intranet for further guidance.

### **Pregnancy Related Absence**

In some cases an employee's absence could be related to pregnancy. Line managers must ensure that in these instances they are dealt with in the appropriate manner, referring to the Council's Maternity policy and New and Expectant Mothers Health and Safety Arrangements available on the 'People' area of the Intranet.

Advice and guidance should be sought from Human Resources.

### **Mental Health Related Absence**

As a Mindful Employer the Council is committed to the following aims:

- Show a positive and enabling attitude to employees and job applicants with mental health issues.
- Not make assumptions that a person with mental health issues will be more vulnerable to workplace stress or take more time off than any other employee or job applicant.
- Provide non-judgmental and proactive support to individual staff that experience mental health issues.
- Ensure all managers have information and training about managing mental health in the workplace.
- Make it clear in any recruitment or occupational health check that people who have experienced mental health issues will not be discriminated against and that disclosure of a mental health problem will enable both the employee and employer to assess and provide the right level of support or adjustment.

For more information visit [www.mindfulemployer.net/charter](http://www.mindfulemployer.net/charter).

Absence relating to mental health must be dealt with promptly and sensitively. Advice and guidance should be sought from Human Resources.

## **Industrial Injury**

If Industrial Injury has been given as the reason for absence this must be fully investigated. Line managers should seek advice from Human Resources in such cases.

Line managers must also refer to the Health & Safety Management Arrangements for Accident and Incident Reporting and Investigation (Including Industrial Injury/Illness) procedure available on the 'People' area of the Intranet.

## **Domestic Abuse**

Line Managers may be the first to become aware that an employee is experiencing domestic abuse because they have the role of monitoring and investigating sickness, attendance and work performance. In this instance line managers should refer to the Domestic Abuse policy on the 'People' area of the Intranet.

## **Terminal Illness**

Cases relating to terminal illness should be handled sensitively and with compassion. The line manager must maintain regular contact with the employee and ensure adequate support is available to the employee and their family.

The line manager must contact Human Resources when dealing with terminal illness so that arrangements can be made for the appropriate advice to be obtained for the employee in respect of ill-health and pension benefits.

## **Death in Service**

In the event that an employee dies whilst in service the line manager must inform Human Resources at the earliest possible opportunity. Line managers should consider referring employees affected by the death of a colleague to the Employee Assistance Programme to access support and counselling.

## **Medical Appointments**

Employees may be required to attend medical appointments.

For employees who are on flexi-time, all non-urgent appointments, check ups etc. for the doctor, dentist, hospital out-patients or any other special appointments should be taken outside core time and employees should at all times return to work as soon as possible or take flexi-leave where it can be planned.

Where the flexi-time scheme does not apply or where it has not been possible to make an appointment outside core time, employees will be required to produce an appointment card and reasonable time off will be given where appropriate. This should be discussed and agreed with the line manager prior to attending the appointment. Employees on flexi-time must sign in at the time that they arrive at the workplace, they will be credited for the hours actually worked on that day and must ensure that time is

recouped within the normal flexi-time limits. Employees will not be credited with a standard working day.

Where the line manager is satisfied that the time and duration of the appointment is outside the control of the employee and it would be unreasonable for the employee to recoup the time within the normal flexi-time limits some or all of the time may be credited to the employee. This would usually apply to non-routine or specialist appointments. Time off in these circumstances should be granted on an occasional basis only.

Medical appointments and procedures which render the employee unfit for work should be recorded as sickness absence.

Please refer to the Flexi-Time Policy on the 'People' area of the Intranet.

### **Appointments for Elective Treatment**

Annual leave should be used by employees undertaking elective (non essential) treatment, for example, cosmetic surgery and this must be agreed in advance with the line manager.

### **Appointments for IVF Treatment**

The Council will wherever possible make reasonable time off arrangements for employees undergoing fertility treatment. There is no requirement to provide paid leave and such occurrences do not meet the requirements of the Special Leave policy. Line managers are advised to consider authorised unpaid leave, annual leave, accrued time/TOIL or flexible working.

### **Sickness following Treatment**

If an employee becomes ill as a result of an appointment (Elective or Non-Elective) this must be recorded as sickness absence and employees must ensure they comply with the Attendance Management absence reporting procedure.

### **Medical Certificates**

Occasionally, an employee may be required or asked to produce a medical certificate for all absences for a specified future period. The cost of the medical note will be reimbursed to the employee concerned by the department upon the provision of a receipt.

### **Sick Pay Scheme**

For details of the Sick Pay Scheme please refer to the 'People' area of the Intranet.

### **Abuse of the Sick Pay Scheme**

Abuse of the Sick Pay Scheme will be dealt with under the Disciplinary procedure.

Abuse of the Council's Sick Pay Scheme could include:

- Sickness attributable to deliberate conduct.
- Falsification of sick notes.
- The employee undertaking conduct that could hinder their early recovery.
- Employees own misconduct or neglect.
- Active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer.
- The employee has been undertaking other work whilst declaring they were incapable of work due to sickness.

This is not an exhaustive list but an indicative guide for line managers. For further advice and guidance the line manager should contact Human Resources.

## 15. Further Guidance

Further guidance on the application of this policy and procedure is available from Human Resources.

## Supporting Appendices

These are available on the 'People' area of the Intranet.

<b>Document Ownership</b>	
<b>Policy owned by:</b>	Head of Human Resources and Organisational Development
<b>Policy written by:</b>	Tony Williams, Human Resources Manager
<b>Date policy written:</b>	23 <sup>rd</sup> March 2011
<b>Policy reviewed:</b>	August 2015
<b>Policy due for next review:</b>	August 2018

<b>Version Control Table</b>			
All changes to this document are recorded in this table.			
<b>Date</b>	<b>Notes/Amendments</b>	<b>Officer</b>	<b>Next Scheduled Review Date</b>
November 2013	<ul style="list-style-type: none"> <li>• Policy reviewed and reformatted</li> <li>• Flowcharts for the supporting Procedure developed</li> <li>• Procedure and appendices reviewed and amended</li> <li>• Formal Action letters reviewed and amended</li> </ul>	Angels Santaeularia/Andrea Morrell-Foulkes/Susie Warwick	November 2016

August 2015	<ul style="list-style-type: none"><li>• Policy and procedure reviewed and amended</li><li>• Appendices, flowcharts and supporting documentation reviewed and amended</li></ul>	Jenny Woods	August 2018
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