

ATTENDANCE PROCEDURE

CONTENTS

1	Introduction and Aims	2
2	Principles	2
3	Scope	3
4	Standards in applying this procedure	3
5	Line management responsibilities	4
6	Employees' responsibilities	4
7	The role of Human Resources (HR)	5
8	The role of the Occupational Health Service (OHS)	6
9	Records	7
10	Authority to take action and to conduct appeals	7
11	Return to Work discussions	8
12	Medical referrals to the OHS	9
13	Dealing with short term absences	10
14	Long term attendance procedure	16
15	Appeals procedure	19
16	Grievances arising during the Attendance procedure	20
17	Pregnancy	20
18	Employees with disabilities as defined by the Disability Discrimination Act	20
19	Sensitive matters – confidential discussions	21
20	Accidents, Industrial Injury and Occupational Ill Health	21
21	Review of the procedure	22
	Appendix 1 – Sickness payment scheme – information	23
	Appendix 2 - Definitions of disability and factors taken into account in determining reasonability of adjustments	27
	Appendix 3 – Appeals against a recommendation for ill health retirement	29

DATE OF IMPLEMENTATION

This is a new procedure which will apply to all Attendance based cases **from Tuesday 1st November 2005. (1st Review June 2007)**

ATTENDANCE PROCEDURE

1 Introduction and Aims

- 1.1 **Introduction** – This procedure is designed to ensure that, when employees are absent for health reasons, the Council is sympathetic and supportive of their needs, whilst balancing these with the business need to deliver good service to its customers.

Line management responsibilities – Line managers are responsible for providing a safe and healthy working environment for their team members, and for applying the specific attendance management responsibilities outlined in section 5 below. Reasonable time off will be provided to the employee and his/her representative to meet to prepare for any formal meetings, prepare witnesses for the employee case subject to clearance in advance with line management.

- 1.2 **Employee responsibilities** – Employees are responsible for taking all reasonable steps to attend work on a regular basis, applying the specific responsibilities outlined in section 6 below and cooperating with the implementation of this procedure.
- 1.3 **Employee representation** – Trade Union (TU) representatives or workplace colleagues are granted reasonable time off within the appropriate stages of this procedure to represent staff who make this request.
- 1.4 **Communication of this procedure** – Current employees will be informed about this procedure and new employees will receive details of this procedure during their induction and ongoing supervision meetings as and when appropriate. It is available on the intranet and from Human Resources. A full copy of the procedure is also available on request.

2 Principles – based on ACAS guidance

Line managers applying this procedure will:

- Use the procedure primarily to help and encourage employees to improve their attendance, rather than just as a way of imposing a punishment
- Inform the employee of the concerns about their attendance, and provide them with an opportunity to state their case before decisions are reached
- Allow employees to be accompanied at formal attendance review hearings
- Ensure that any formal action regarding attendance is not taken until the facts of the case have been established and the action is reasonable in the circumstances, taking account of any mitigating circumstances and/or relevant medical or other specialist advice (e.g. HR Diversity Team) and/or the need to make reasonable adjustments as required by the Disability Discrimination Act (DDA)
- Give the employee a written explanation for any formal action taken regarding attendance, ensure that the employee is made aware of the improvement that is expected and confirm her/his right of appeal against any sanction that is imposed
- Deal with issues as thoroughly and promptly as possible
- Act consistently, whilst having regard to the individual circumstances of the case

- Reduce the likelihood of dismissing employees who, with appropriate support, can improve their attendance.

3 Scope

- 3.1 **Eligibility** – This procedure applies to all employees except the Chief Executive & Directors, school based staff, centrally based teaching staff and employees on probation, who have their own procedures.
- 3.2 **Handling of attendance issues under this procedure** – Both intermittent short term absences and long-term absences impact negatively on the service provided to our customers – and this procedure purposely provides for different approaches to managing such distinct absence patterns.
- 3.3 **Alcohol and/or drug related absences** - Where unsatisfactory attendance is related to alcohol and/or drug use line managers should have regard to the Substance Misuse procedure, and seek advice from HR and/or the OHS and/or the Safety and Emergency Planning section (ESP) as appropriate.
- 3.4 **Job titles or roles** - Job titles or roles may be changed as a result of organisational restructures. It is management’s responsibility to determine who has authority to implement this procedure.
- 3.5 **Sickness payment scheme – information** – Appendix 1 outlines key aspects of the sickness payment scheme which apply to the management of this Attendance procedure.

4 Standards in applying this procedure

Line managers applying this procedure should:

- Investigate all health related absences fully before taking formal action, in liaison with HR and/or the OHS as appropriate
- Provide the employee with a written summary detailing the attendance issues and any relevant information prior to a formal attendance review meeting
- Give the employee the opportunity to make their case at any formal attendance review meeting conducted by an appropriate level of manager
- Make the employee progressively aware that failure to improve her/his attendance could result in dismissal
- Recognise the need to allow reasonable time periods to enable attendance to improve
- Provide for the decision making process to explore alternatives to dismissal
- Take no formal attendance action against an accredited recognised trade union representative until, with her/his prior agreement, the attendance concerns have been discussed with a full-time official of the union
- Have regard to the Equality and Diversity policy
- Maintain confidentiality and privacy at all times
- Maintain appropriate records, having regard to such issues as the Data Protection Act and the Access to Medical Records Act

5 Line management responsibilities – includes agency staff managing Council employees

- 5.1 To ensure employees understand and follow the sickness absence and accident reporting arrangements.
- 5.2 To ensure accurate recording of sickness absence on Pahriss; to conduct return to work discussions; to check that self certificates are completed accurately; to check that medical certificates are submitted to HR in a timely and accurate manner.
- 5.3 To ensure that all accidents and incidents are properly reported and investigated and then liaise with the ESP section to assess whether the circumstances arising from an incident, accident or verbal/physical/mental abuse should be treated as an accident at work or industrial injury. (Appendix 1 – paragraph 6 refers)
- 5.4 To promote return to work plans and arrangements to secure and maintain an improvement in an employee's attendance.
- 5.5 To make reasonable adjustments to retain an employee who becomes disabled or whose disability has worsened – subject to prior authorisation of the appropriate manager. (Appendix 2 outlines guidance about the definition of disability and 'reasonable adjustments')
- 5.6 To maintain contact, in liaison with Human Resources, with the employee through long-term sickness absence periods.
- 5.7 To liaise with HR over redeployment and referrals to the OHS.
- 5.8 To make arrangements for the release of any witnesses called by either party and arrange a note taker for any appropriate formal attendance review and/or appeal hearing, as appropriate. (For confidentiality reasons the note taker will be a Council employee who is not related to any of the parties concerned)
- 5.9 To apply this procedure fairly and promptly.

6 Employees' Responsibilities

6.1 General responsibilities - employees are required to;

- Report sickness absence as outlined in paragraph 6.2 below
- Undertake return to work discussions with their line manager as outlined in section 11
- Maintain regular contact with their line manager and advise if the illness becomes prolonged
- Take appropriate steps to assist a return to work e.g. by obtaining medical advice and, where appropriate, treatment
- Attend OHS appointments when required to do so

Failure to undertake these responsibilities may result in disciplinary action being taken and/or sick pay being delayed or stopped.

- 6.2 **Absence reporting on first day of absence** - an employee who is unable to attend work due to sickness or injury **must** inform her/his line manager as soon as is reasonably practicable on the first day of absence as agreed with her/his line manager. In some departments, this may require notification before the normal starting work time. This is to enable cover arrangements to be made to minimise service disruption. The employee needs to confirm:
- The reason s/he cannot attend work
 - When s/he expects to return to work.
- 6.3 **Accidents at work** - an employee who has an accident at work must report the matter as soon as is practicable to her/his line manager, and ensure that the details are recorded on the Council's accident/incident reporting system [http://intranet01/accident /](http://intranet01/accident/)
- 6.4 If the employee considers the absence to be work related, s/he needs to clearly state this and provide sufficient details for the appropriate health and safety reporting details to be completed.
- 6.5 **Absence reporting on fourth working day of absence** - if the employee is still absent on the fourth calendar day, s/he must contact her/his manager again to provide an update on her/his position.
- 6.6 **Self certification** - the employee **must** complete the Council's self certification form for **all** absences of seven calendar days or less absences of eight calendar days or more require a medical certificate.
- 6.7 **Medical certificates for absence exceeding seven calendar days** - where an absence exceeds seven calendar days, (including weekends and bank holidays), the employee **must** submit her/his medical certificate to her/his line manager within seven calendar days of its issue - who will then forward it to the HR section for processing. (The employee may **also** be asked to provide a medical certificate for short-term absences of seven calendar days or less – and when this is the case, s/he can reclaim the full cost of the certificate).
- 6.8 **Disability related absences** - where an employee feels that her/his absence is attributable to a disability as defined by the Disability Discrimination Act¹, then s/he should advise her/his manager in confidence, so that it can be taken into account in decision-making. S/he should provide details of the potential adjustments needed to meet these requirements, for subsequent review by HR, the OHS and/or the Emergency and Safety Planning section as appropriate.
- 7 The role of Human Resources (HR)**
- 7.1 To assist all parties to identify the full facts of the case and advise the Council's officers on the appropriate action(s) at all stages of the procedure.
- 7.2 To seek to ensure fairness and consistency in the application of the procedure, and advise on the HR implications of relevant codes of practice.

¹ *The Disability Discrimination Act defines disability as where an individual has a physical or mental impairment, which has a substantial long term adverse affect on his/her ability to carry out normal day to day activities.*

- 7.3 To ensure that the employee is made aware of the support available through the Council's confidential staff counselling (EAP) service at stages of the procedure.
- 7.4 To liaise with the OHS at all stages of the procedure.
- 7.5 To assist managers in maintaining contact with employees who are on long term sickness absence.
- 7.6 To assist managers with the design of rehabilitation programmes and redeployment matches - this can include liaison with Job Centre Plus and Disability Employment Advisers who can advise on the Access to Work Fund to obtain finance towards adjustments required by the DDA.
- 7.7 To attend **formal** Stage II and Stage III attendance review meetings (short term absences), all long term attendance review meetings and/or appeal hearings when requested by the line manager concerned, and confirming the administrative arrangements for such meetings e.g. arranging the date, time, venue and circulation of documentation. (However, the line manager concerned is responsible for arranging a note taker, as appropriate) The same HR representative can attend all formal meetings unless a conflict of interest exists.
- 7.8 To maintain confidential attendance records.
- 7.9 To monitor relevant Attendance procedure matters and conduct regular reviews with Staff Side e.g. equality and diversity issues.

8 The role of the Occupational Health Service (OHS)

- 8.1 The Occupational Health Service (OHS) provides a prompt and timely service to support the well being of all employees. This includes: -
 - Arranging confidential counselling via the Employee Assistance Programme
 - Contacting the employee's GP/health care professional to obtain medical reports with the employee's consent
 - Liaising with external sources of support e.g. to give up smoking, overcome substance misuse
 - Supporting individuals who have been off sick with stress (work related or personal issues)
 - Advising on a planned return to work
 - Promoting well being initiatives
 - Liaising with the ESP section in relation to accidents at work, as appropriate
- 8.2 The OHS provides an advisory service (in accordance with the Data Protection Act and Access to Medical Records Act) to line management through Human Resources and, subject to appropriate medical consent procedures, makes recommendations on issues such as:
 - Whether there is an underlying health condition
 - If so, when is it likely to be resolved and what is its impact on the employee's ability to carry out her/his work
 - If and when the employee returns to work, her/his fitness to carry out her/his duties

- Whether any other type of work would enable attendance to be more regular and efficient e.g. possible adaptations to work, equipment, work patterns and/or the work place which will encourage regular and reliable attendance
- Whether there is a disability
- The likelihood of the illness returning or some other illness occurring
- Whether there is permanent ill health.

9 Records

9.1 Medical information is sensitive personal data. Records are confidential and are kept within the requirements of the Data Protection Act 1998, which allows employees access to their records via Human Resources.

9.2 The Access To Medical Records Act 1988 allows individuals to check the accuracy of medical reports prepared by a medical practitioner who has responsibility for the care of that individual. Employees are asked to sign a consent form to allow the medical adviser to approach her/his medical practitioner or consultant for information. Employees can elect to see any medical report before the medical adviser gives advice to the Council based on information contained in the report.

9.3 Records include

- The attendance record
- Advice from the OHS and/or the Council's medical advisers and/or independent medical advisers
- Information from the employee about her/his condition
- Any adjustments made to facilitate a return to work
- Any efforts made to redeploy the employee
- The decision letter and/or reports on adjustments made to facilitate a return to work or to redeploy an employee
- Whether an appeal(s) was lodged
- The outcome of any such appeal(s)
- Any grievance(s) raised during the attendance procedure
- Any subsequent developments.

9.4 Details of attendance records are kept by HR on a confidential basis. Decision letters are held in the personal file and are retained either until satisfactory attendance is achieved and sustained or the end of the sanction period, whichever is the latter. Records regarding sickness absence are retained by Payroll for 2 years.

10 Authority to take action and to conduct appeals – includes agency staff managing Council employees

NOTE – This procedure necessarily uses the generic terms 'line manager' and 'line manager's manager' – and each department will designate the specific managers who are delegated to undertake these roles, **based on the current staff appraisal arrangements.**

- 10.1 The Council has delegated authority to Directors to specify the levels of management who may take action appropriate action within this Attendance procedure, as follows. The specification will be in accordance with this framework.
- 10.2 The line manager is responsible for conducting return to work discussions, and , progressing medical referrals to the OHS. (section 12 refers)
- 10.3 The line manager is responsible for conducting a Stage I attendance review for short-term absences – section 13 refers.
- 10.4 The line manager's manager is responsible for conducting Stage II attendance reviews for short term absences (section 13 refers) and advising her/his HOS about long-term attendance reviews (section 14 refers).
- 10.5 The Head of Service (HOS) is responsible for conducting Stage III attendance reviews for short-term absences and long term attendance reviews and deciding on outcomes, including dismissal.
- 10.6 Where there is either a written sanction or a dismissal decision within this procedure, there is a right of appeal to the Director.
- 10.7 Where an employee reports to a HOS, the Stage I attendance review for short term absences is conducted by the HOS; the Director conducts the Stage II and III attendance reviews for short term absences and any long term attendance reviews, and decides on outcomes, including dismissal; and the right of appeal against a written sanction and or a dismissal decision by the Director is to the Chief Executive (CE), who may delegate any such appeal to a Director who has not been involved in the case.
- 10.8 Where an employee is a HOS, the Stage I attendance review for short-term absences is conducted by the Director. A Director who has not been involved in the case conducts the Stage II and III attendance reviews for short-term absences and any long-term attendance reviews and decides on outcomes, including dismissal. The right of appeal against a sanction or dismissal is to the CE, who may delegate this matter to a Director who has not been involved in the case.
- 10.9 The HOS can authorise extension of sick pay and/or commutation of full and half pay.

11 Return to Work discussions

- 11.1 The line manager is responsible for welcoming the employee back to work and conducting a return to work discussion to review any health issues in the context of the workplace. Where the employee has issues which s/he wishes to bring to the attention of the manager, these should be addressed. This discussion is normally brief and the manager completes the Return to Work discussion form and provides the opportunity for the employee to add her/his comments. The completed form must be forwarded to HR for the personal file.

- 11.2 Where absence levels are of concern, the line manager speaks to the employee informally regarding the level of absence and/or the reasons, and informs her/him that moving to the short term absence procedure outlined in section 13 may be necessary.
- 11.3 The line manager monitors the appropriate trigger levels outlined in paragraph 13.2 (for short term absences) and paragraph 14.1 (for long term absences), to ensure that a consistent approach is maintained to managing attendance.

12 Medical referrals to the OHS

- 12.1 The line manager may obtain OHS advice on how medical issues may be affecting an employee's attendance and/or performance. Any such medical referral to the OHS is made by the line manager (copy to HR) using the intranet link document – http://intranet/oh_referral.doc.

The type of advice from the OHS that the line manager will find helpful is outlined in paragraph 8.2. With the support of HR, the line manager ensures that the OHS is provided with appropriate information about the medical issues affecting the employee's attendance, including any risk assessments about the working environment and the employee's duties.

- 12.2 When any such medical referral is made to the OHS, the line manager must brief the employee to ensure that s/he:
- Knows the purpose of the referral
 - Understands her/his rights on medical confidentiality, and the right to check the accuracy of medical reports
 - Understands the consequences of refusing to sign a medical consent form: understands that decisions have to be made on the basis of known (medical) information, including the Council's need for information about the prognosis for recovery and/or regular attendance
 - Understands the implications of either refusing to attend an occupational health appointment or failing to attend without providing the OHS with a good reason: understands the process for the stoppage of occupational sick pay.

NOTE

It is noted that, iff the employee either refuses to attend the occupational health appointment and/or refuses to sign a medical consent form, the Council has no alternative but to take action in line with the Attendance Procedure based only on the medical advice that is available to the OHS (which may consequently mean that the OHS/ Council may not necessarily have full details of the employee's prognosis for recovery when determining appropriate action within the Attendance Procedure).

- 12.3 On its receipt HR sends the appropriate line manager a copy of the OHS report- which the line manager then discusses with the employee and, where appropriate, HR. Subject to the above discussions, the line manager makes the appropriate decisions e.g. either no further action is required, possible reasonable adjustments or commencement of the attendance review process outlined below.

13 Dealing with short term absences

Key principles

13.1 This section outlines the procedure for managing short periods of absence- which may be irregular and/or attributable to one or more causes.

13.2 **Trigger levels** – the key trigger levels comprise:-

- 3 separate absence 'episodes' in a 'rolling' 6-month period and/or;
- 5 separate absence 'episodes' in a 'rolling' 12-month period and/or;
- 11 **working** days in a 'rolling' 12-month period (pro rata equivalent for part time employees) and/or;
- any pattern of absence which causes the line manager concern e.g. a pattern of absences either side of weekend or bank holiday periods and/or before key work deadlines and/or any other pattern requiring investigation.

NOTE – For example, if the latest absence occurred on 8th June 2006, a 'rolling' 12 month review period would refer back to 9th June 2005, whereas an absence occurring on 14th October 2006 would refer back to 15th October 2005 (similar principle for a 'rolling' 6 month period).

13.3 Based on the above trigger levels and/or information from recent return to work interviews the line manager assesses whether there is an attendance concern. If so, s/he meets with the employee on an informal basis to discuss the reasons for the absences and to check whether the employee is supported appropriately. Subject to this informal discussion, the line manager considers whether the unsatisfactory attendance pattern should be progressed to the Stage I attendance review procedure outlined below – having regard to potential mitigating circumstances and a fair and consistent approach to attendance management.

Stage I attendance review procedure (conducted by the line manager)

Arrangements for the Stage I attendance review process

- 13.4 The focus of the Stage I attendance review procedure is to help the employee improve her/his attendance. At the same time the employee needs to be aware that continued unsatisfactory attendance has an adverse affect on service delivery, and that ultimately her/his job could be at risk.
- 13.5 The line manager consults the employee over the date of the Stage I attendance review meeting and gives five working days notice, or less by mutual agreement. The employee is informed in writing of the reasons for the attendance review and provided with the evidence, which forms the basis of the Stage I meeting. S/he has the right to be accompanied by a TU representative or workplace colleague. This evidence will be in the form of a management report setting out details of the absences and action taken to redress the situation.
- 13.6 The employee is allowed one change to the Stage 1 attendance review meeting date if either s/he, or her/his representative, is unable to attend the meeting for reasons which were unforeseen when the meeting was first arranged. The reconvened meeting must take account of

the availability of all parties and be within five working days or by mutual agreement. Sickness will only be treated as a reason for non attendance where the health condition of the employee is such that s/he cannot attend the hearing or follow the proceedings.

- 13.7 The line manager must be thorough and conduct a balanced investigation of the attendance record. Written records of all communications with the employee must be gathered to support the investigation.

Conduct of the Stage I attendance review meeting

- 13.8 The line manager conducting the Stage I attendance review meeting meets with the employee, and her/his representative as appropriate, to discuss the attendance pattern and concerns. The line manager:-

- Reviews the attendance pattern and record and all available supporting documentation
- Considers whether the impact of absence on service delivery is compatible with the Council's business needs
- Considers the employee's views and reasons for absence
- Explores obtaining medical advice from OHS or other suitable specialist
- Explores whether different working arrangements and health and safety issues are applicable
- Provides details of confidential counselling (EAP) service to the employee
- Agrees any reasonable adaptations which may be appropriate, whether temporary or longer term (having regard to the DDA, as appropriate)
- Where appropriate, sets an attendance monitoring period (normally between 4 weeks and 3 months)

Communicating the outcome

- 13.9 The outcome of the review meeting outlined in paragraph 13.7 above is confirmed in writing within five working days. Where appropriate, the decision letter also confirms to the employee that failure to improve attendance levels within the scheduled attendance review period could result in a Stage II attendance review meeting, and that ultimately her/his job could be at risk.

Attendance monitoring review process

- 13.10 During the scheduled attendance monitoring period, the line manager may require the employee to provide a medical certificate from the first day of any sickness absence, in which case the cost of the certificate is met by her/his department, on production of an appropriate receipt. (Where the employee's medical practitioner declines to provide a medical certificate to cover the first seven calendar days of an absence the line manager liaises with HR to record on the employee's sickness record the medical practitioner's refusal).
- 13.11 At the end of the scheduled attendance monitoring period the line manager meets with the employee to determine whether a) satisfactory attendance has been achieved or b) an extension of the Stage I attendance monitoring period is appropriate (normally between 4 weeks and 3 months) or c) the continued attendance concerns should be progressed to a Stage II attendance review. (Where there have been **significant** attendance problems during the scheduled

attendance monitoring period, the line manager may arrange the monitoring review meeting **earlier** than the scheduled attendance monitoring review date).

Communicating the outcome of the attendance monitoring review process

- 13.12 The outcome of the review meeting outlined in paragraph 13.10 above is confirmed in writing within five working days. Depending on the circumstances, the decision letter confirms either that a) satisfactory attendance has been achieved or b) the proposed duration of any extension to the Stage I attendance monitoring period and/or c) the consequences of any continued attendance concerns. If either option b) and/or c) applies the decision letter also confirms that failure to improve attendance to the required standard could result in a Stage II attendance review meeting, and that ultimately her/his job could be at risk.
- 13.13 Where attendance is found to be unsatisfactory during the attendance monitoring review period, or is not then sustained within a twelve-month period, the line manager may decide to progress the attendance concerns to the Stage II attendance monitoring review process.
- 13.14 The line manager may ask the HR department to arrange a medical referral to the OHS at any appropriate time during the Stage I attendance review period.

Stage II attendance review procedure (conducted by the line manager's manager)

Arrangements for the Stage II attendance review process

- 13.15 The focus of the Stage II attendance review procedure is to help the employee improve her/his attendance. At the same time the employee is made aware that continued unsatisfactory attendance has an adverse affect on service delivery and may ultimately lead to dismissal.
- 13.16 The line manager's manager (hereafter called the Stage II review manager) consults the employee over the date of the Stage II attendance review meeting and gives five working days notice, or less by mutual agreement. The employee is informed in writing of the reason(s) for the review and provided with the evidence, which forms the basis of the Stage II attendance review meeting. S/he has the right to be accompanied by a TU representative or work place colleague.
- 13.17 The employee is allowed one change to the Stage II attendance review meeting date if either s/he, or her/his representative, is unable to attend the meeting for reasons which were unforeseen when the meeting was first arranged. The reconvened meeting must take account of the availability of all parties and be within five working days or by mutual agreement. Sickness will only be treated as a reason for non attendance where the health condition of the employee is such that s/he cannot attend the hearing or follow the proceedings.
- 13.18 If the employee wishes to provide any additional evidence, s/he should do so in writing, at least two working days before the Stage II attendance review meeting.
- 13.19 The Stage II review manager should seek advice from HR as appropriate.

Conduct of the Stage II attendance review process

- 13.20 The Stage II review manager meets with the employee, and her/his representative as appropriate, to discuss the attendance pattern and concerns. The Stage II review manager :
- Reviews the attendance pattern and record and all evidence submitted
 - Considers whether the impact of absence on service delivery is compatible with the Council's business needs
 - Considers the employee's views and reasons for absence
 - Explores obtaining medical/specialist advice
 - Explores whether different working arrangements and health and safety issues are applicable
 - Checks that any adaptations recommended at Stage I and/or any other reasonable adjustments required by the DDA have been made
 - Agrees any reasonable adaptations, whether temporary or longer term
 - Where appropriate, sets an attendance monitoring attendance review period (normally between 4 weeks and 3 months)

Communicating the outcome

- 13.21 The outcome of the review meeting outlined in paragraph 13.19 above is confirmed in writing within five working days. Where appropriate, the decision letter also confirms to the employee that failure to improve attendance levels could result in a Stage III attendance review, and that ultimately her/his job could be at risk.

Attendance review monitoring process

- 13.22 During the scheduled attendance monitoring review period, the Stage II review manager may require the employee to provide a medical certificate from the first day of any sickness absence, in which case the cost of the certificate is met by her/his department on production of an appropriate receipt. (Where the employee's medical practitioner declines to provide a medical certificate to cover the first seven calendar days of an absence the line manager liaises with HR to record on the employee's sickness record the medical practitioner's refusal).
- 13.23 At the end of the scheduled attendance monitoring review period, the Stage II review manager meets with the employee and, if appropriate her/his representative, to determine whether a) satisfactory attendance has been achieved or b) an extension of the Stage II attendance monitoring period is appropriate (normally between 4 weeks and 3 months) or c) the continued attendance concerns should be progressed to a Stage III attendance review. (Where there have been **significant** attendance problems during the scheduled attendance monitoring period the line manager may arrange the monitoring review meeting **earlier** than the scheduled review date).
- 13.24 At the review meeting the Stage II review manager will explain if attendance has not reached a satisfactory standard and allow the employee to respond. If it is considered that there is no justifiable reason for failing to reach the required standard, and/or that the unsatisfactory standards of attendance are likely to continue, the matter is referred to a Stage III attendance

review. If there are justifiable reasons, the attendance monitoring review period may be extended within Stage II of the attendance review procedure.

Communicating the outcome

- 13.25 The outcome of the review meeting outlined in paragraphs 13.22 and 13.23 above is confirmed in writing within five working days. Depending on the circumstances, the decision letter confirms either that a) satisfactory attendance has been achieved or b) the proposed duration of any extension to the Stage II attendance monitoring period and/or c) the consequences of any continued attendance concerns. If either option b) and/or c) applies the decision letter also confirms that failure to improve attendance to the required standard could result in a Stage III attendance review meeting, at which dismissal could be considered.
- 13.26 Where attendance is found to be unsatisfactory during the attendance monitoring period, or is not then sustained within a twelve-month period, the employee is informed that her/his attendance concerns will be referred to a Stage III attendance review, which is organised as outlined in paragraphs 13.5 - 13.6, but with 10 working days notice.
- 13.27 The line manager may ask the HR department to arrange a medical referral to the OHS at any appropriate time during the Stage II attendance review period.

Stage III attendance review procedure (conducted by the HOS)

Arrangements for the Stage III attendance review process

- 13.28 The focus of the Stage III attendance review procedure is to help the employee improve her/his attendance. At the same time the employee is made aware that continued unsatisfactory attendance has an adverse affect on service delivery and may lead to dismissal.
- 13.29 The appropriate HOS (hereafter called the Stage III review manager) consults the employee over the date of the proposed Stage III attendance review meeting and gives five working days notice, or less by mutual agreement. The employee is informed in writing of the reason(s) for the review and provided with the evidence, which forms the basis of the Stage III meeting. S/he has the right to be accompanied by a TU representative or work place colleague.
- 13.30 The employee is allowed one change to the Stage III attendance review meeting date if either s/he, or her/his representative, is unable to attend the meeting for reasons which were unforeseen when the meeting was first arranged. The reconvened meeting must take account of the availability of all parties and be within five working days or by mutual agreement. Sickness will only be treated as a reason for non attendance where the health condition of the employee is such that s/he cannot attend the hearing or follow the proceedings.
- 13.31 If the employee wishes to provide any additional evidence, s/he must do so in writing, at least two working days before the Stage III attendance review meeting.
- 13.32 The Stage III review manager should seek advice from HR as appropriate.

Conduct of the Stage III attendance review process

13.33 The Stage III review manager meets with the employee, and her/his representative as appropriate, to discuss the attendance pattern and concerns. The Stage III review manager:-

- Reviews the attendance pattern and record and all evidence submitted
- Considers whether the impact of absence on service delivery is compatible with the Council's business needs
- Investigates fully the evidence presented
- Considers the employee's views and reasons for absence
- Explores obtaining medical /specialist advice
- Explores whether different working arrangements and health and safety issues are applicable
- Checks that any adaptations recommended at Stage II and/or any other reasonable adjustments required by the DDA have been made
- Considers if other options are appropriate, such as reviewing the position after a further attendance monitoring period (normally not less than 4 weeks but no more than 3 months) and/or possible adaptations, whether temporary or long term
- Subject to the other options outlined above, decides whether the employee should be dismissed.

Communicating the outcome

13.34 Where possible, the decision is given verbally on the day of the meeting. In any event, the outcome of the meeting is confirmed in writing within five working days, together with the reasons for the decision and details of the employee's right of appeal where there is either a written sanction or a dismissal decision.

Attendance monitoring process during any extended attendance monitoring review period

13.35 Where an extended attendance monitoring review period has been approved under paragraph 13.32 above, the HOS may require the employee to provide a medical certificate from the first day of any sickness absence, in which case the cost of the certificate is met by her/his department on production of an appropriate receipt. (Where the employee's medical practitioner declines to provide a medical certificate to cover the first seven calendar days of an absence the line manager liaises with HR to record on the employee's sickness record the medical practitioner's refusal).

13.36 Where a further attendance monitoring period has been approved under paragraph 13.32 above, the Stage III review manager reconvenes the attendance review meeting with the employee, and her/his representative as appropriate, at the scheduled review date – with the meeting organised as outlined in paragraphs 13.5 -13.6, but with 10 working days notice. At the review meeting, the Stage III review manager considers the issues outlined in paragraph 13.32 above. Where s/he considers that attendance is found to be unsatisfactory during any such extended attendance monitoring period, or is not then sustained within a twelve-month period, the Stage III review manager decides on the appropriate action, which may involve a dismissal decision.

13.37 Where the Stage III review manager makes a dismissal decision, this will be subject to the employee's contractual notice period. Where there is an OHS recommendation for redeployment, the redeployment search should continue during the notice period unless this is impracticable.

13.38 The Stage III manager may ask the HR department to arrange a medical referral to the OHS at any appropriate time during the Stage III attendance review period.

Communicating the outcome

13.39 The outcome of the attendance review meeting outlined in paragraph 13.35 above is confirmed in writing within five working days. The decision letter confirms the reasons for the decision and, where appropriate, outlines the employee's right of appeal.

14 Long term attendance procedure

Key principles

14.1 Long term absence may be defined as circumstances where:

- It is unlikely that the employee will recover to return to their current job and/or
- There is a specific medical condition or illness which is expected to be permanent and/or it is not possible to predict the employee's approximate return date and/or
- There is an unspecified medical condition or illness where it is difficult to establish an approximate return date.

The key **trigger levels** apply where an employee:

- has been off sick for 20 continuous working days or more and does not have a return to work date given (pro rata equivalent for part time employees) or
- has taken 20 working days off in a 'rolling' 12 month period, which may comprise a combination of both short and long term absence periods. (pro rata equivalent for part time employees)

NOTE – For example, if the latest absence occurred on 8th June 2007, a 'rolling' 12 month review period would refer back to 9th June 2006, whereas an absence occurring on 14th October 2006 would refer back to 15th October 2005 (similar principle for a 'rolling' six month period).

14.2 The line manager, in liaison with HR, maintains contact with the employee either through telephone, letter, email, a home visit or a contact visit to the office, as appropriate in the circumstances, to focus on her/his well being. The employee's consent to a home visit must be obtained prior to any such visit(s). This contact should include sympathetic informal discussion about the nature of the illness, any medical advice and any relevant information about the workplace/colleagues. The manager maintains regular contact with the employee to ensure that s/he is aware of any proposed reorganisations or changes and developments which affect his/her role and keeps a record of this - in liaison with HR.

- 14.3 The line manager, in consultation with HR, may decide to progress a medical referral to the OHS – using the process outlined in Section 12 eg by providing OHS with relevant information on any matters relating to the employee’s work environment and /or job role to assist with the preparation a medical report outlining the employee’s prognosis for recovery and potential return to work/retention at work, including advice on reasonable adjustments.
- 14.4 Where the subsequent medical report from the OHS indicates that there is no foreseeable return date or poor prospects for reliable and regular attendance as outlined above, the line manager informs the employee that the matter is being referred to the HOS, who will hold a long term attendance review, as outlined below. The purpose of the long term attendance review procedure is to discuss the implications of the medical advice that has been received – recognising that this may confirm that:
- there is not a good prospect for returning to work (in any event or after an unsuccessful redeployment search) and/or
 - attendance is unlikely to be reliable in the future and/or
 - there is a recommendation for ill health retirement

Long term attendance review process (conducted by the HOS in liaison with line management)

- 14.5 **Initial assessment meeting** - The first stage of the long term attendance review process comprises an initial assessment meeting between the HOS, the employee, and her/his representative as appropriate, and HR – and its purpose is to review both the relevant medical reports and any personal issues raised by the employee. The HOS arranges this initial assessment meeting, as outlined in paragraphs 13.5 and 13.6. The HOS seeks advice from HR and/or the OHS as appropriate and is authorised to seek the attendance of the line manager at this meeting in order to provide clarification on any specific points. In any case the HOS will have access to and will circulate to all parties at least two days prior to the meeting, an updated management report (para 13.5 above).

Arrangements for the subsequent long term attendance review meeting

- 14.6 Subject to the initial assessment meeting outlined in paragraph 14.5 above, the HOS arranges the subsequent long term attendance review meeting as outlined in paragraph 14.7 below. (The process for arranging this meeting is outlined in paragraphs 13.5 and 13.6).

Conduct of the long term attendance review meeting

- 14.7 At the long term attendance review meeting, the HOS discusses and reviews with the employee and, her/his representative as appropriate, the issues outlined in paragraph 13.32, including the possibility of reasonable adjustments. The HOS is authorised to seek the attendance of the employee’s line manager, at any time during this meeting, in order to clarify details of the nature, its duration and the impact of the absence on service provision. Dependent on the issues raised and the employee’s prognosis for recovery, the HOS considers appropriate action which may include the following options: -
- a) A phased return to work, which may include appropriate reasonable adjustments*
 - b) An attendance monitoring review period – see 14.8 below

- c) Redeployment, which may include reasonable adjustments* - see 14.9 below
- d) Ill health retirement – see 14.10 below
- e) Dismissal – see 14.11 below
- f) Any other appropriate option providing these incur minimal costs to the authority eg early retirement

NOTE –* Where reasonable adjustments are proposed, the HOS will seek advice from HR, the OHS and/or the ESP section as appropriate, and liaise with the line manager concerned.

- 14.8 With regard to option b) above, the HOS may decide to set an attendance monitoring review period to assess whether the employee’s health is likely to improve – normally between 4 weeks and 3 months. At the end of the scheduled attendance monitoring review period, the HOS will obtain a further medical report – with a long term attendance review meeting then held at the appropriate time to determine whether or not the employee’s health concerns are likely to improve.
- 14.9 With regard to option c) above, there is a time limit on a redeployment search of 3 months from the time that the employee completes a skills match form, subject to any DDA reasonable adjustments. The employee must be advised that a redeployment search does not guarantee alternative employment. Where such a redeployment search is unsuccessful the HOS may request an up to date medical advice report prior to a further long term attendance review meeting. The council’s Redeployment Procedure must apply in such circumstances.
- 14.10 With regard to option d) above, the HOS, in liaison with HR, can only consider ill health retirement when the OHS (the Council’s Medical Advisor) recommends this.
- 14.11 Where an employee is dismissed, this is with her/his contractual notice.

Communicating the outcome

- 14.12 Where possible, the decision is given verbally on the day of the long term attendance review meeting. The outcome of the meeting is confirmed in writing within 5 working days, together with the reasons for the decision and, as appropriate, the employee’s right of appeal.

Attendance monitoring process during any extended attendance monitoring review period

- 14.13 Where a further attendance monitoring review period has been approved under paragraph 14.7 above, the line manager, in consultation with the HOS, may require the employee to provide a medical certificate from the first day of any sickness absence, in which case the cost of the certificate is met by her/his department on production of an appropriate receipt. (Where the employee’s medical practitioner declines to provide a medical certificate to cover the first seven calendar days of an absence the line manager liaises with HR to record on the employee’s sickness record the medical practitioner’s refusal).
- 14.14 Where a further attendance monitoring period has been approved under paragraph 14.7 above, the HOS reconvenes the attendance review meeting with the employee and her/his representative as appropriate – with the meeting organised as outlined in paragraphs 13.5 - 13.6, but with 10 working days notice. At the review meeting, the Stage III review manager

considers the issues outlined in paragraph 14.7 – 14.10, as appropriate. Where s/he considers that attendance is found to be unsatisfactory during any such extended attendance monitoring period, or is not then sustained within a twelve-month period, the HOS decides on the appropriate option, which may involve a dismissal decision.

Communicating the outcome

14.15 Where possible, the decision is given verbally on the day of the long term attendance review meeting. The outcome of the meeting is confirmed in writing within 5 working days, together with the reasons for the decision and, as appropriate, the employee's right of appeal.

15 Appeals procedure (for both the short and long term absence procedures)

15.1 An employee has the right of appeal against dismissal following either a Stage III short term absence review (section 13 refers) or a long term attendance review (section 14 refers). A TU representative or workplace colleague may accompany an employee at the dismissal appeal hearing.

15.2 The employee must submit her/his appeal against dismissal in writing within five working days of the date of the decision letter, stating the grounds.

15.3 The employee may appeal on the following grounds: -

- The procedure – a failure to follow procedure had an effect on the decision and/or
- The evidence did not support the conclusion of the manager and/or
- The suitability of redeployment opportunities and/or
- New medical evidence – has come to light since the Stage III short term absence attendance review or the long term attendance review and was not reasonably available at the time of that hearing

15.4 The employee must provide any supporting evidence to support the basis of her/his appeal against dismissal to the designated appeal manager within five working days of submitting her/his appeal.

15.5 Where an employee wishes to appeal against a decision of dismissal on the grounds of ill health retirement a separate appeal procedure applies, as outlined in Appendix 3.

15.6 The appeal manager, with the assistance of HR, ensures that the manager who conducted either the Stage III attendance review for short term absences or the long term attendance review provides a management case statement within five working days of receiving the employee's case. This is then used at the dismissal appeal meeting.

15.7 The appeal manager (with assistance from HR) ensures that both parties receive the evidence. The employee has the same rights to representation as outlined in paragraphs 13.5 and 13.6. The appeal manager seeks advice from HR, as appropriate.

15.8 The appeal manager holds the appeal meeting with the employee and her/his representative to discuss the specific grounds of the appeal, and then :

- Determines whether the grounds of the appeal are valid
- Considers any new evidence submitted
- Determines either that the dismissal decision was appropriate or remedies any defect in the decision.

15.9 The decision of the appeal manager is final.

Communicating the outcome

15.10 Where possible, the decision of the appeal manager is given verbally on the day. The decision, together with the reasons for the decision, is confirmed in writing within five working days of the appeal meeting.

16 Grievances arising during the Attendance procedure

16.1 if the employee wishes to raise a grievance during the attendance review process that is related to the case in any way, s/he should submit details of the grievance in writing to the line manager's manager. The latter should take advice from either the HOS and/or HR as whether it would be appropriate and beneficial to **consider** suspending the attendance review process for a short period whilst the grievance is dealt with. Depending on the nature of the grievance, the manager, in liaison with the HOS and/or HR as appropriate, may also decide to bring in another manager to deal with the attendance review process.

NOTE – Reference will be made to the current ACAS Code of Practice on Disciplinary and Grievance procedures.

17 Pregnancy

17.1 Pregnancy is not an illness. Managers should:

- Ensure that a health and safety risk assessment is completed as soon as an employee notifies her line manager that she is pregnant (there is an intranet link to the risk assessment procedure that applies for staff who are pregnant)
- Maintain a record of all sickness absence, but exclude pregnancy related sickness absence from any attendance monitoring period. It is automatically unfair to discriminate against or dismiss a woman for reasons related to her pregnancy.

17.2 Managers should liaise with HR to ensure that the employee is aware of their rights to attend pre natal care and of the Council's Work Life Balance Guidelines.

NOTE – The OHS in the Civic Centre has a rest room for use by staff who are pregnant.

18 Employees with disabilities as defined by the Disability Discrimination Act

18.1 The line manager obtains OHS advice about whether the employee has a disability, unless this is already evident.

- 18.2 The line manager maintains a record of all sickness absences, identifying separately any disability related sickness absence. The line manager should seek advice from her/his HR department and/or the OHS as to whether it is appropriate to include this in monitoring the employee's attendance.
- 18.3 The line manager gives the relevant employee disability related leave for any such medical appointments and issues connected with their disability – subject to prior consultation with HR and/or the OHS as appropriate.
- 18.4 The line manager meets with the relevant employee regularly to review the current reasonable adjustments that have been made and/or to identify potential new adjustments, and whether assistance can be obtained from Access to Work – with advice from HR and/or the OHS as appropriate.

19 Sensitive matters - confidential discussions

- 19.1 The employee may elect to speak to a person other than her/his line manager in confidence over sensitive issues eg confidential staff counselling service, HR , Health & Safety Adviser or OHS practitioner.
Examples (which are not exclusive) of sensitive issues include:
- Life threatening conditions which have substantial remission periods.
 - Sickle cell or Thalassaemia only affect certain minority ethnic groups. These conditions often result in short term absence to deal with a crisis.
 - HIV /Aids. In some cases the employee may still be coming to terms with such knowledge and may be faced with additional emotional or psychological pressures.

20 Accidents, Industrial Injury and Occupational Ill Health

- 20.1 Under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) employers have a legal duty to record:
- Accidents at work (there is an intranet link to the accident reporting procedure)
 - Incidents (occurrences which could have led to an accident or injury) and
 - Instances of verbal or physical violence and/or stress
- 20.2 The line manager is responsible for
- Considering how the accident or incident occurred
 - Obtaining information from any witnesses
 - Investigating working practices or systems of work, including risk assessment
 - Seeking advice and guidance from either HR and/or the Health and Safety department (the latter will then liaise with the Council's Insurers as appropriate, and advise on any Department of Social Security assessments that may be applicable)
 - Involving the local Health and Safety representative(s)

21 Review of the procedure

- 21.1 The Council has delegated powers to the Chief Executive to determine and implement this procedure.. The procedure has been developed following detailed consultation with a wide range of stakeholders, and will be reviewed on a regular twelve monthly basis in accordance with 'best value' continuous improvement principles.

Ged Curran
Chief Executive

Sickness payment scheme - information

1 Sickness absence in relation to holiday entitlement

- 1.1 Where an employee is sick during part of her/his annual leave, s/he must provide a medical certificate for any days for which s/he wishes to reclaim annual leave. There is no recoupment of bank holidays.

2 Sick Pay Scheme

- 2.1 The occupational sick pay (OSP) scheme is service based and entitlements are on a rolling twelve-month basis.

During 1st year of Service	1 months' full pay	and (after completing 4 months service) 2 months' half pay
During 2nd year of service	2 months' full pay	and 2 months' half pay
During 3rd year of service	4 months' full pay	and 4 months' half pay
During 4th and 5th years of service	5 months' full pay	and 5 months' half pay
After 5 years' service	6 months' full pay	and 6 months' half pay

- 2.2 Information on entitlement to Statutory Sick Pay (SSP) can be obtained from the Payroll section, which is responsible for the administration of OSP and SSP.

- 2.3 This entitlement to receive payments during sickness absence under the OSP and/or SSP schemes is subject to the following conditions being met:

- The correct reporting procedure is followed;
- Proper medical and/or self certificates are provided within the correct time scales;
- The employee has the continuous service with the Council required for OSP/SSP;
- The illness is not due to negligent behaviour by the employee;
- The employee does not prejudice her/his recovery from the illness or injury by her/his behaviour.

Extensions of Sick Pay

In certain circumstances there is scope for the Council to vary the national provisions. The variations fall into two categories:

- authority for the commutation of the half pay entitlement to full pay, but only to the same monetary value, e.g. six months half pay may be commuted to three months full pay;
- authority to extend the half pay period beyond that which is prescribed.

Directors/Heads of Service are responsible for ensuring that an employee's sickness absence is monitored and regularly reviewed to enable any variation considered appropriate to be made. Action can be initiated either by the employee on request, or by management.

Employees will where possible be given at least one month's notice by the Payroll Section of expiry of half rate sick pay. In considering requests for extensions and commutations every effort must be made to ensure that full and detailed information is obtained before deciding on the appropriate course of action and that it will be in the best interest of the employee concerned.

Criteria for Commuting Half Pay to Full Pay

In considering commuting the half pay period the following criteria will apply.

1. Consideration should be given to whether commutation would be in the best interest of the employee.
2. Advice should be sought from the Council's Occupational Health Adviser including the employee's expected date of return.
3. Where sick pay is commuted the employee should be advised that if they do not return to work as planned, i.e. at the end of the period of sick pay, or return to work and subsequently fall sick again, there may be no immediate entitlement to sick pay.
4. Where the Council's OH Adviser has issued an ill health certificate and re-deployment is not an option or ceases to be an option, consideration should be given to commutation of the half pay period, whilst steps are being taken to terminate the contract but only if it would be of mutual interest to the employee and the Council.

Criteria for Extending the Half Pay Period

In considering the extension of the half pay period the following criteria apply.

1. The employee's circumstances must be kept under regular review and an assessment made as to whether an extension should be granted, before the expiry of the half pay period.
2. Advice should be sought from the Council's Occupational Health Adviser (OHA) including the employee's expected date of return.
3. Likely reasons for extension of the half pay period would include:
 - (a). where the Council's OHA recommends re-deployment, if re-deployment is obtained, then it may be appropriate to extend sick pay at half rate to bridge the gap between the expiry of the half pay period and the effective date of the re-deployment;
 - (b). delay in resolving the individual's employment position due to the Council's OHA needing to obtain medical information from the employee's GP or Hospital Consultant, for which the employee is not responsible;
 - (c). delays due to a difference in opinion between the Council's OHA and the employee's GP and/or Hospital Consultant;
 - (d). investigations which indicate the employee should have been referred to the Council's OHA earlier;
 - (e). cases of industrial injury ;
4. Consideration of any other personal circumstances that may come to light as a result of interview.

The employee concerned, the Financial Services, Payroll Section and Human Resources should be notified in writing.

3 Medical and Dental Appointments

- 3.1 Appointments to visit the Doctor and Dentist and/or medical appointments such as physiotherapy or a blood test should, wherever possible, be arranged at a time outside the employee's normal working hours. Employees working flexible hours should arrange appointments outside core time.
- 3.2 Where an appointment can only be made at a time during the employee's normal working hours such absences should be recorded as 'Hospital' or 'Dental' Visits.
- 3.3 Prior approval from the line manager must be obtained for any absence from the workplace for medical or dental appointments. Provided that the appropriate procedures are applied correctly, the absence will be treated as authorised paid absence.

Managers Guidance

Absences of 3.5 hours (half day) or more should be recorded on the PAHRIS system as "Hospital or Dental Visits". Absences of less than 3.5 hours should be recorded by a manual note on the employee's personal file, noting the reason for the absence e.g GP appointment, hospital appointment etc and the duration. This can be a copy of a confirmatory e-mail note sent by the manager to the employee noting the duration and reason for the absence.

If appropriate, local arrangements may be made between the manager and the member of staff for flexible working so that absence in core time is not recorded as a medical visit.

N.B. There may be circumstances where the line manager has concerns about the nature and/or duration or number of absences and that appointments are being arranged at a time to suit the individual and not services or that the continued absences have implications as part of ongoing supervision meetings and the matter may need to be progressed under the formal HR procedures (Attendance Procedure or Disciplinary Procedure) subject to prior consultation with Human Resources. For this purpose six occasions will be the trigger for the number of such absences which causes concern.

4 Third party claims

- 4.1 Where the employee is absent from work due to an accident, which may involve a claim by the employee for compensation from a third party, there is no automatic entitlement to payments under the occupational sick pay scheme. The Council will, however, consider advancing loans to the employee of an amount equivalent to the employee's normal pay, subject to the employee agreeing, in advance and in writing, to reimburse these payments to the Council from any compensation received from the third party. The Council may at its discretion waive part or all of the loans made to the employee.
- 4.2 Where an employee is absent from work in these circumstances the manager should inform the HR team, who will then notify the Payroll Section as soon as possible.

5 Participation in sports and related activities

- 5.1 Employees who are injured while participating in professional sport and/or who participate in activities which are prejudicial to their recovery and/or receive personal gain or payment are excluded from the scope of the occupational sick pay scheme whilst absent from work as a result of that injury.

6 Industrial injury and/or disease – and infectious diseases

- 6.1 The following is an extract from Part 2 Section 10.2 (Sickness Scheme) of the current National Agreement on Pay and Conditions of Service.

'Absences in respect of normal sickness is entirely separate from absence through industrial disease, accident or assault arising out of or in the course of employment with a local authority. Periods of absence in respect of one shall not be set off against the other for the purpose of calculating entitlements under the scheme.'

NOTE – Absences following an industrial disease, an accident or an assault arising out of or in the course of employment will be treated separately from normal sickness **only** after they have been reported, investigated and assessed as such.

- 6.2 The following is an extract from Part 2 Section 10.9 (Sickness Scheme) of the current National Agreement on Pay and Conditions of Service.

"An employee who is prevented from attending work because of an industrial injury or contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlement under the (sickness payment) scheme. Details of the Industrial Injury Scheme are available from Human Resources.

NOTE - A range of illnesses may be contracted directly at work or as a result of working conditions e.g. tuberculosis, scabies, and hepatitis. In such cases managers should seek guidance from either HR, the OHS and/or the Emergency and Safety Planning section.

Definitions of Disability and factors taken into account in determining reasonability of adjustments

1 What is a disability?

A person is a 'disabled person' only if the impairment has an adverse effect upon his or her 'normal day-to-day activities'. The Act specifies that in order to satisfy this element of the definition it must affect:

- mobility; or
- manual dexterity; or
- physical coordination; or
- continence; or
- ability to lift, carry or otherwise move everyday objects; or
- speech, hearing or eyesight; or
- memory or ability to concentrate, learn or understand; or
- perception of the risk of physical danger

The key issues to consider are:

- Does the individual have an impairment which is either mental or physical?
- Does the impairment affect the individual's ability to carry out normal day-to-day activities in one of the respects set out in Schedule 1?
- Is the adverse effect substantial, rather than minor or trivial?
- Is the adverse effect long term?

NOTE – The Council will meet with immediate effect the proposed terms of the Disability Discrimination Act which effective in 2006 relating to protection for individuals with HIV, Multiple Sclerosis and Cancer from the point of diagnosis. It is also noted that the requirement for mental illness to be “clinically well recognised” is no longer required.

2 Why are reasonable adjustments required?

To ensure that a disabled person is not placed at a substantial disadvantage in comparison with those who are not disabled

3 When and where are reasonable adjustments required?

At all Stages of the employment lifecycle:

- At recruitment
- In terms and conditions of employment
- Promotion
- Transfer
- Training

- Any other benefit which is offered eg relocation
- Where employment has ended: - references to potential new employers

4 Reasonable adjustments are required to premises:

- Approach to, exit from and access to the building
- Fixtures, fittings, furnishings, furniture, equipment

5 What could be a reasonable adjustment?

The list below is not exhaustive:

- Making adjustments to premises
- Allocating some of the disabled person's duties to another person
- Transferring the individual to fill an existing vacancy
- Altering her/his hours of work or training e.g. flexible working
- Assigning her/him to a different place of work or training
- Allowing her/him to be absent during working hours for rehabilitation, assessment or treatment
- Providing training or mentoring
- Acquiring or modifying equipment
- Modifying instructions or reference manuals
- Modifying procedures for testing or assessment
- Providing a reader or interpreter
- Providing supervision or other support
- Employing a support worker to assist a disabled person
- Modifying the disciplinary or grievance procedures
- Adjusting redundancy selection criteria
- Modifying any performance-related pay arrangements that may apply

6 When is it reasonable to adjust?

Need to examine case by case, but must consider:

- The extent to which taking the step would prevent the event in question
- The extent to which it is practicable for the employer to take the step
- The financial and other costs of the adjustment and the extent of any disruption caused
- The extent of the employer's financial and other resources
- The availability of financial and other assistance in taking the step
- The nature of the activities and size of the organisation

7 Making reasonable adjustments – employer responsibilities

The duty to make reasonable adjustments does **not** arise if the employer does not know and could not reasonably be expected to know that an applicant for a job is a disabled person or that an employee has (or had) a disability and is likely to be placed at a substantial disadvantage by the employer's working arrangements or premises.

1. Appeals against recommendation for ill health retirement

- 1.1 When an ill health certificate has been issued and any alternative employment possibilities have been exhausted, the manager with authority to make such a decision (normally the HOS or Director) will write formally to the employee to inform her/him of the Authority's intention to terminate her/his employment on the grounds of permanent ill health. At this stage, the employee must be informed of her/his right to appeal. This right must be exercised by the employee within fifteen working days from the date of the letter.
- 1.2 The employee may present evidence from a medical practitioner of their choice to the Council's Medical Advisor within 15 working days of the Council's receipt of the employee's letter indicating her/his wish to appeal.
- 1.3 The employee will be informed of the decision of the Council's Medical Adviser within 10 days of receipt of the evidence. If the employee still wishes to contest a decision to terminate employment on grounds of ill health, s/he must state this in writing within 10 days of receipt of the decision of the Council's Medical Advisor.
- 1.4 A further opinion is obtained from an independent consultant, who is mutually agreed, in Occupational Health. This process should be completed within 20 working days of the notification of the employee's appeal in paragraph 1.3 above. The Council meets the costs of this report. This report is sent to the Council and the employee may request a copy in accordance with the Access to Medical Records Act 1988. On receipt of the report the Director will arrange a meeting as in Paragraphs 13.5 and 13.6 of the Attendance procedure.
- 1.5 If, after fifteen working days the employee has not lodged an appeal, written notice of termination will be given in accordance with the employee's conditions of service and the Employment Rights Act 1996. The letter will include details of entitlement to payments, including any pension arrangements.
- 1.6 Where an employee is certified medically unfit to carry out her/his current job, and where all possibilities for redeployment have been exhausted, then immediate notice of her/his retirement should be given. The notice period will be on full pay, less National Insurance benefit, irrespective of whether the sickness allowance currently being paid is full, half rate or nil. Payment in lieu of notice may be arranged, particularly if this is in the best interests of the employee, or on advice from the Council's Medical Advisor. There is no provision for employees to exhaust both full sick pay and half sick pay entitlement before entering their notice period.
- 1.7 The HR manager must notify the Payroll and Pensions Sections of the termination arrangements so that appropriate payments are made. Possible redeployment must be kept open for review during any notice period.