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# Managing Employee Health

## Introduction

The Council's procedure on managing employee health aims to reduce the impact of sickness absence on service delivery and promote the achievement of organisational aims.

It is essential that both managers and employees have a shared understanding of the actions that must take place at the time of sickness absence, be clear on the levels of attendance required and the action that will be taken where this is not achieved. Effective communication between managers and employees at all stages of the process is thus a key requirement.

The Procedure is accompanied and supported by a series of guidance notes. Further guidance notes will be issued as and when required.

This procedure also includes guidance on managing alcohol and substance misuse, which aims to provide an effective framework by which such issues can be identified and addressed.

## What will be done for you

Human Resources (HR) will: -

- Periodically review the guidance notes and produce additional or updated guidance as appropriate and in the light of changes in employment law.
- Provide general advice on the application of the procedure.
- Ensure that appropriate training is available for managers and supervisors to properly equip them to manage the procedure.
- Be responsible for selecting the Council's contractor for occupational health services and monitoring the contract.

## What you must do

- Ensure that all employees within your unit are aware of any local requirements for notifying sickness absence and maintaining contact during sickness absence.
- Maintain regular and frequent contact with employees who are absent due to sickness.
- Maintain accurate sickness absence records through Employee/ Manager self service for each employee within your unit.

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- Meet with each employee when they return from sickness absence, wherever possible on the day of return.
- Ensure that all employees within your unit are aware of individual attendance targets and trigger points for review action and any other local criteria or variations from the corporate standards.
- On a monthly basis monitor the sickness absence records of each employee within your unit and commence formal sickness reviews where appropriate using the corporate standards in the absence of any locally agreed criteria.
- The Council's procedure for managing sickness absence provides a structured framework of appropriate action. Key stages in the process include conducting sickness guidance interviews, seeking advice from the Occupational Health Service on medical issues, setting appropriate targets, exploring a range of options to return employees to work and minimise future absence, conducting review meetings and the potential use of capability action. Individual management action should only vary where they can be justified, where local criteria have been agreed and published and where they are appropriate in all the circumstances.
- Ensure that you are aware of the specific employment rights of employees covered by the provisions of the Disability Provisions of the Equality Act, in particular the need to make reasonable adjustments to respond to the needs of such employees.
- Determine when employees' absence may result in capability or disciplinary action being taken against them and, in such cases, ensure that the relevant Council procedures are properly implemented.
- Ensure payments are made to employees for periods of sickness absence in accordance with their contracts of employment and that all appropriate records are maintained within the business unit to justify payments under the occupational sick pay scheme or SSP.
- Ensure that all employees in your unit are aware of the alcohol and substance misuse guidance and the rights and responsibilities contained therein.

### **What you must not do**

- Discriminate against any employee who is covered by the Disability Provisions of the Equality Act or whose absence is pregnancy-related.

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## **What you can do**

- Agree local variations from the corporate criteria in terms of reporting sickness absence, maintaining contact with absent employees and setting attendance targets and triggers for review action.

## **Key information**

- Advice on managing sickness absence and responding to particular problems can be sought from departmental/divisional HR managers employed within your department/division.
- Confirmation of individual entitlements to sick pay, advice on SSP and information on entitlements to benefits at a time of medical retirement can be obtained from local HR teams.

## **Reference section**

Occupational Health Services are provided by an external contractor, Atos Healthcare. The Service is located at Keats House, 24-26 St. Thomas Street, London, SE1 9RS.

All referrals to Atos Healthcare should be made using the Cosmas Vista web portal. The web portal can be accessed at the following address:

<http://www.ohportal.co.uk>

The Southwark Council OHS Customer Service Desk for Referring Managers and HR staff is available from 9:00 am to 5:00 pm Monday to Friday and can be contacted on the following numbers:

0845 371 0571 (For referring managers use only)

Referral Documentation Fax Number: 0121 779 7654

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## **SICKNESS ABSENCE MANAGEMENT PROCEDURE**

### **[1] INTRODUCTION:**

Everyone in the workforce, at all levels, feels the impact of ill health and sickness absence and it significantly affects how the Council performs. This in turn affects the level and quality of services we provide to our customers, both internal and external.

Very many staff take little or no sickness absence during a year. Where there is high or under-managed sickness absence, however, it does have a direct impact on the cost and quality of the Council's services, as well as an effect on the staff who do attend regularly.

We ourselves might be absent from work through illness. We may be managers attempting to provide services and to manage the sickness absence of others. We may be colleagues trying to do our own work whilst also covering for absent work-mates. Health, welfare and sickness absence are therefore important issues for all of us.

The Council is committed to providing high quality services by:

- maintaining a healthy workforce;
- reducing sickness absence to a minimum;
- developing and keeping under review a strong, clear framework of policies and procedures within which managers and staff can work;
- supporting managers and staff with adequate resources for training and guidance to help them understand and adhere to those policies and procedures;
- measuring and monitoring sickness absence data;
- setting clear and achievable attendance targets and devising local strategies for performance improvement;
- communicating those targets to ensure that all managers and staff are aware of the Council's expectations;
- actively managing both short- and long-term sickness absence; and
- supporting those who are unfortunate enough to be absent through illness by making available welfare and occupational health services.

As employees, we need:

- to have confidence that we work for an employer who really cares about our health and welfare;
- to know our employer has a fair, flexible and, where appropriate, sympathetic policy and procedure which address the real pressures and demands on our lives;
- to know what our employer expects of us; and
- to know when and why managers will take any action.

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As managers, we need:

- to be able to assess what level of sickness absence is usual and reasonable for an organisation like the Council, and what is achievable;
- to know how we can measure and record sickness absence accurately and fairly and when and why we need to do something about it;
- to understand and address the needs of our staff;
- to understand the links between work and health; and
- to have the facility to take a flexible approach to implement creative and imaginative responses to different types of absence.

## [2] PROCEDURE:

**(Note: This Procedure is accompanied by a series of short Guidance Notes. Text printed in bold and italics within the Procedure indicates that a Guidance Note is available on that topic.)**

### [a] Reporting sickness absence -

Making early contact with your manager is key to effective sickness absence management. Your manager needs to know as soon as possible if a member of his/her team feels too unwell to come to work. Any necessary action can then be taken quickly, including investigating the cause of any illness that appears to be work-related. It also allows other colleagues in the team to be alerted and gives everyone time to make suitable arrangements for cover.

On the first day of sickness absence, therefore, you must contact your manager, or arrange for contact to be made, to **report your sickness absence** in accordance with the local arrangements in place within your Business Unit.

### [b] Maintaining contact during sickness absence -

If you are still unable to attend work after three days, you must contact your manager, or arrange for contact to be made, on the fourth working day of absence.

**Maintaining regular and frequent contact** with your manager while you are absent due to illness is important. What form that contact takes, and how regular and frequent it is, will be determined on a case by case basis. As a general rule and in the absence of any other locally agreed arrangements, however, you will be required to contact your manager again if you are still absent due to illness on the sixth working day (and to give an indication of when you expect to return to work), and thereafter every fifth working day of absence.

### [c] Medical certificates –

Periods of sickness absence in excess of five continuous working days must be covered by a medical certificate. From 6 April 2010 the sick note will be called the Statement of Fitness for Work (Fit Note). **Medical certificates** must be obtained from your general practitioner and submitted without delay to your manager.

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Irrespective of the length of absence, you must submit a medical certificate where the sickness absence falls within a period of annual leave (if you want to reclaim the annual leave), during a period of notice and on either side of a public or bank holiday or annual leave.

[d] Recording sickness absence -

Your manager will be responsible for ensuring sickness absence records are maintained . All sickness absence should be recorded using Employee or Manager Self Service and requires a return to work form to be completed immediately after each spell of absence.

A return to work meeting should take place between the employee and manager with a record of the meeting recorded on a Return to Work form. Details will include the dates of absence, the reason for the absence and any other relevant information. Both you and your manager will be required to sign the form which will be kept locally. Storage of these forms will be kept confidentially and securely and you will have the right to inspect it.

Employees are required to record the first seven days of sickness absence using Employee Self Service.

Managers are required to record sickness absence after the first seven days of sickness or **all** periods of sickness absence if the employee does not have access to ESS.

It is the employee and manager's responsibility to ensure all periods of absence are accurately recorded on Employee/ Manager Self Service.

[e] Return to work meetings -

When you return to work after a sickness absence (of any duration) your manager will hold a **return to work meeting** with you and complete a return to work form. Where practical, this meeting will take place on the day you return to work. If you request it and it is practical to do so, a female manager may conduct this meeting. In all cases, however, each department will have a female HR officer who can act as an initial point of contact between you and your manager if you wish.

Return to work meetings are an important part of a proper and fair sickness absence management procedure since they provide managers with an opportunity to:

- show you that your absence from work has been noted;
- show their concern for your state of health;
- show the Council's determination to address each instance of sickness absence as a management issue;
- clarify for you the impact your absence has had on the team (although this may not be appropriate where absence has been unavoidable); and
- ensure your sickness record is updated and decide whether there is a need for any further action to be taken.

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Return to work meetings are a normal part of the everyday management/supervisory process and as such there is no requirement nor entitlement for you to be represented or accompanied at such meetings.

[f] Sickness absence monthly reviews -

Each month, your manager is required to review the sickness records of each of their staff. Where your sickness absence meets the criteria agreed for your Business Unit the formal guidance process will be invoked. For this purpose, there is no distinction between certificated, self-certificated and uncertificated sickness absence.

In the absence of any alternative local criteria agreed for your Business Unit, the “trigger” for the formal guidance process will be either:

- three spells of sickness absence (of any length) in the previous rolling three month period; or
- a total of ten days’ sickness absence in the previous rolling twelve month period.

[g] Formal guidance interviews -

Where the conditions referred to in paragraph [f] apply, your manager will conduct a sickness guidance interview with you, normally within one week of the end of your period of sickness absence. The purpose of this sickness guidance interview is two-fold:

- (i) to ensure that you are fit to return to work from a management point of view, rather than on medical opinion, and to offer any necessary assistance and support to facilitate your return to full duties; and
- (ii) to explore whether there are any underlying problems, either work-related or not, which contributed to your sickness absence.

At the sickness guidance interview your manager may consider with you a number of options, including:

- referral to the Occupational Health Service;
- referral to other support functions, e.g. Southwark’s confidential counselling and support service;
- temporary adjustment to duties/workload or work pattern/arrangements; and
- job redesign (where appropriate).

Your manager will also decide on an appropriate review period and set individual attendance targets which you will be required to meet during the review period. The review period will normally be six weeks, but may vary according to the circumstances of each case.

At the end of the sickness guidance interview your manager will complete and provide you a copy of a pro-forma which will confirm the following points:

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- what action your manager intends to take;
- any individual attendance targets s/he has set; and
- the date of your next sickness guidance interview.

[h] Second (and subsequent) formal guidance interviews -

Your manager will use this meeting to review the effectiveness of any action agreed at the first guidance interview and to consider whether the individual attendance targets set at that meeting have been met.

If the targets have been achieved and there are no further concerns raised, your manager will confirm in writing that the formal guidance process is at an end, and the normal sickness absence management process will continue.

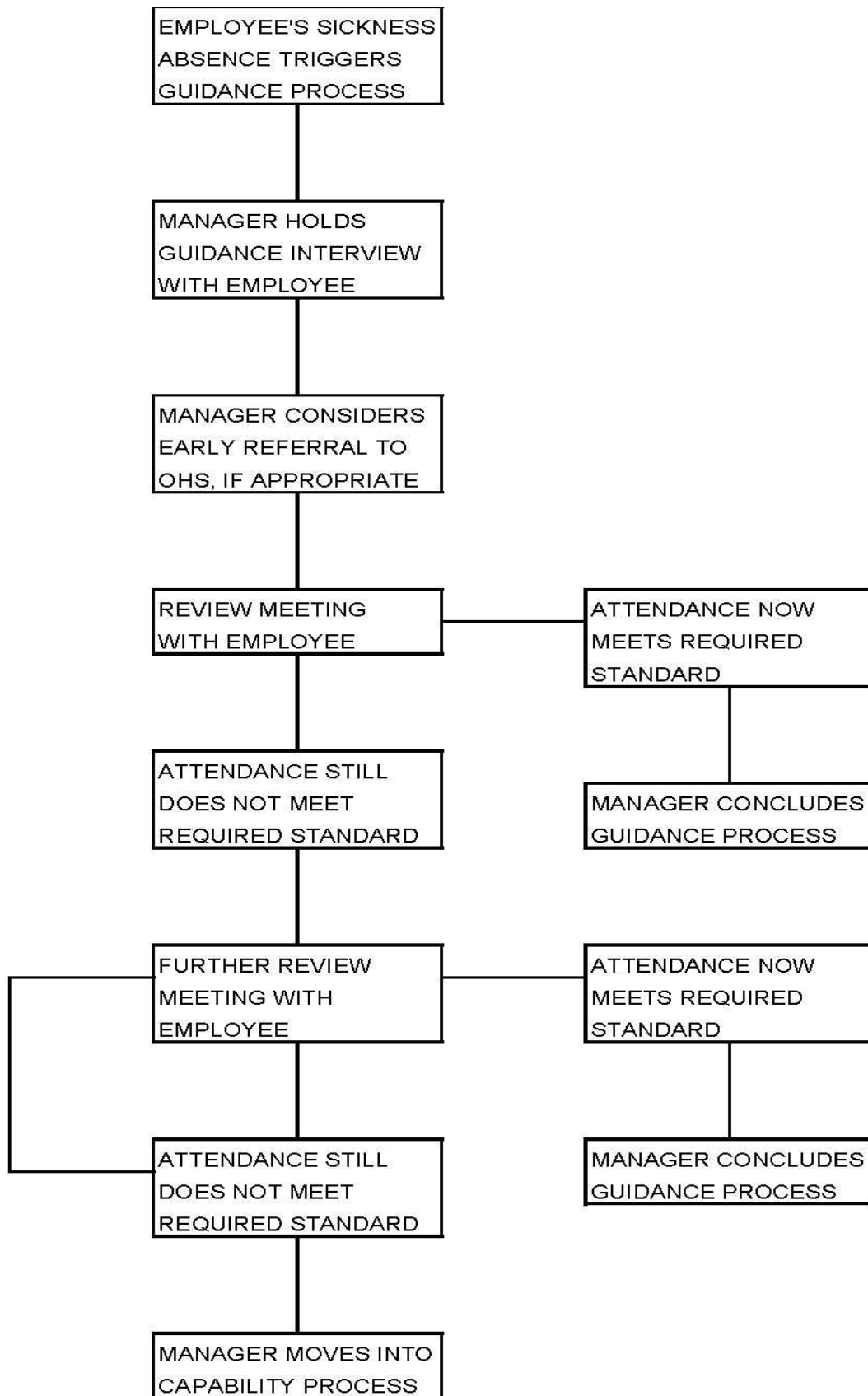
If your attendance has not improved to a level acceptable to your manager, s/he will confirm this to you and use the meeting to again explore the issues of concern and previous discussion and decide upon a further review period for you to meet the required standards. Your manager will also inform you at this meeting what action will be taken if your attendance does not reach the required standard by the end of this further review period.

At the end of any further review period your manager will arrange another guidance interview meeting to determine whether or not your attendance now meets the required standard. If it does, your manager will confirm that the formal guidance process is at an end, and the normal sickness absence management process will continue. If your attendance has not improved to the required standard, your manager will consider whether it is appropriate to set a further review period or whether it is appropriate to proceed with formal action under the Council's capability procedure.

You should be aware that formal sickness guidance interviews may also, where appropriate, be regarded as the initial stages of the formal capability process.

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**[3] FLOWCHART:**



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#### **[4] GUIDANCE NOTES:**

The following guidance notes have been prepared to accompany the Sickness Absence Management Procedure:

1. [Reporting sickness absence and maintaining contact during sickness absence](#)
2. [Medical certificates](#)
3. [Absence recording](#)
4. [Return to work meetings](#)
5. [Conducting sickness guidance interviews](#)
6. [Home visits](#)
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14. [Reports from the Occupational Health Service](#)
15. [Confidential counselling service](#)
16. [Implications of the Disability Provisions of the Equality Act](#)
17. [Accidents and assaults at work](#)
18. [Maternity/pregnancy-related sickness absence](#)
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## **1: REPORTING SICKNESS ABSENCE AND MAINTAINING CONTACT DURING SICKNESS ABSENCE**

### Reporting sickness absence:

Each Business Unit must have clear rules regarding the reporting of sickness absence by employees. These rules may vary slightly according to the different reporting lines, working patterns and service requirements of individual Business Units. It is essential, however, that the rules are agreed within the Department and properly publicised within the Business Unit and that each individual employee knows and understands the procedure that applies to them when they are required to report any sickness absence. The arrangements should therefore be set out in writing and a copy handed to each employee.

New employees to the Business Unit must be informed of the procedure for reporting sickness absence as part of their induction. This induction will also include employees being advised of the circumstances that require a medical certificate to cover a spell of sickness absence and the requirement to record absence using Employee or Manager self service. A separate Guidance Note on medical certificates has been prepared.

Where employees work non-standard hours (i.e. early or late shifts) it is particularly important that Business Managers issue them with local guidance.

It is also important that all employees are aware that if the reporting procedures are not adhered to without a reasonable explanation acceptable to the manager, the consequences may be loss of pay and liability to formal disciplinary action.

### Maintaining contact during sickness absence:

Business Managers have some flexibility in deciding what arrangements for maintaining contact with employees who are absent due to illness are appropriate within their Business Unit and it may be appropriate for him/her to agree that those arrangements (what form the contact should take and how regular and frequent it should be) can be dependent upon the circumstances of each case.

Notwithstanding this, however, the guiding principles for reporting sickness absence and thereafter maintaining contact are:

- On the first day of sickness absence all employees are required to contact a nominated manager/supervisor within one hour of their usual starting time. The employee should give the reason for their sickness absence and ideally give an indication of the likely period of absence. In exceptional circumstances it may not be possible for the employee to make the contact, and on such occasions the employee must arrange for someone else to contact the manager on their behalf. It is the employee's responsibility to ensure that this person makes contact in accordance with the Business Unit's procedure.

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- On the fourth working day of sickness absence the employee must again contact the nominated manager/supervisor within the specified time.
- The employee should thereafter make further contact on the sixth working day of sickness absence and offer an indication of the likely duration of the absence.
- The employee is required to then contact his/her manager/supervisor every further fifth working day of absence.

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## **2: MEDICAL CERTIFICATES**

If an employee has been absent from work due to sickness for four consecutive working days or more, upon return to work they are required to complete a Return to Work/ Self-Certification Form for Statutory Sick Pay purposes. Return to Work/ Self-Certification Forms are available on the Human Resources Source Pages and require employees to indicate the days they were absent and the reason(s) for that absence.

In the following circumstances, employees must obtain a medical certificate from their general practitioner or hospital to the effect that they are unfit to attend work:

- where the sickness absence lasts more than five consecutive working days;
- where sickness absence falls within a period of annual leave (and the employee wishes to reclaim the annual leave);
- during a period of notice;
- on the day either side of a public or bank holiday;
- on the day either side of annual leave; and
- if they are employed on a fixed-term or temporary contract (discretionary).

From 6 April 2010 the sick note will be called the Statement of Fitness for Work (Fit Note). The statement will no longer have the “fit for work” option. Therefore, the Council will not request that an employee obtains a fit for work certificate from their GP to return to work. As per the Council’s policy there still remains occasions when a private medical certificate is required, for e.g. during a period of notice and this remains unchanged.

The GP will state whether they need to assess their patient's fitness for work again at the end of the Statement period. Where the GP does not need to see the patient again, in most cases you can expect the employee to return to work or their usual duties at the end of the Statement period. If the GP needs to see the patient again and during the subsequent consultation they feel the employee is able to return to work without any functional limitations, the GP will not issue your employee with a new Statement.

There is a new option for GPs to advise whether an employee may be fit for work with some support. There is also more space for a GP to provide information on how the employee's condition will affect what they do, and helpful tick boxes for GPs to use to suggest common ways to help an employee return to work. Where a GP feels an assessment by an occupational health professional is required, they will state this. If this is not statement, it does not prevent managers from referring an employee to occupational health services if it is felt that this is necessary. Managers who are unsure of GPs recommendations may liaise with Human Resources on the way forward.

If the GP has indicated that the employee may be fit for work, managers should consider the GP's comments and discuss this with the employee. If a return to work is possible, managers should agree any temporary changes to the employee's job or hours and indicate what support will be provided and the duration. It may be helpful to discuss these temporary changes with the Council's Occupational Health provider.

If the GP has advised that the employee 'may be fit for work', and the Council cannot make the adaptations or adjustments to help a return to work, this should be explained to the employee and then the Statement should be used as if the GP had advised 'not fit for work'. i.e. for all relevant purposes the employee is sick. The employee does not need to go back to their GP for a new Statement to confirm this.

Sometimes an employee will be able to return to work before the end of a Statement period where a GP has advised that they are not fit for work. This may be because the employee has recovered faster than the GP expected, or the GP did not know of ways in which the Council could support the employee to return to work. In these circumstances there is no need to wait until the end of the statement period if it is appropriate for the employee to return to work, an earlier return date, including any necessary risk assessment (or liaison with occupational health service as necessary), is possible.

Medical certificates must indicate the period of sickness absence they intend to cover.

Medical certificates must be submitted by the employee to their manager promptly and certificates obtained after the sickness absence should not be accepted, except in exceptional circumstances subject to the manager's discretion. A decision not to accept a certificate dated after the sickness absence must be recorded and justified. Failure by the employee to provide medical certificates at the appropriate times may result in the loss of their pay.

National Health Service medical practitioners are not obliged to, and seldom do, provide NHS medical certificates to cover sickness absences of less than five consecutive working days. Where the Council requires employees to submit medical certificates for periods less than this (see above), employees are required to obtain from their general practitioner a private medical certificate where s/he declines to provide a NHS medical certificate. In these circumstances, the Business Manager is required to reimburse the employee the amount charged by the general practitioner for providing a private medical certificate.

Where a manager has legitimate concerns about the level of short-term sickness absence (especially where the Occupational Health Service have advised that there is no underlying medical reason for the absences), as part of the sickness guidance interview process an employee may be required to provide a medical certificate for each and every day of sickness absence. Such certificates are likely to be private medical certificates and the employee must be reimbursed the cost of obtaining them.

Medical certificates are retained locally unless the certificate recommends a work adjustment that may need to be considered as part of a contractual change and / or management of the employee's sickness through the capability procedure, when it should be sent to Human Resources as part of the employee record.

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### **3: ABSENCE RECORDING**

Managers must ensure sickness absence records for each employee are maintained using Employee or Manager Self Service and that a return to work form is completed after each spell of absence. Return to work forms must be completed by the manager in discussion with the employee following each period of sickness absence – normally at the return to work meeting. The form will then be signed by both the employee and the manager. These forms will be kept locally in a secure location due to the personal and confidential nature of their content.

Employees are required to record the first seven days of sickness absence using Employee Self Service (ESS). Managers are required to record sickness absence after the first seven days of sickness or all periods of sickness absence where the employee does not have access to ESS.

ESS is the standard method of reporting sickness absence for the first seven days, with managers electronic reporting forms used for longer periods of absence. Where there is no access to ESS or e-reporting, paper based reporting & sickness cards continue to apply.

The sickness absence record enables managers to monitor the sickness absence record for each member of their staff. This monitor should be undertaken on a monthly basis. The manager should check on any recurring causes or types of sickness, distinctive patterns of absence and levels of sickness absence in excess of pre-determined trigger/target levels.

It is therefore important that the sickness absence record is completed fully:

- Sickness period – the first and last days of sickness absence should be recorded, as should the total number of working days lost during the specific period of absence;
- Rolling twelve month total should be calculated and recorded – this is the total number of working days lost due to sickness in the past twelve month period; and
- Notes – this should contain information on the reason(s) given for the sickness absence. It is useful to provide details of medical certificates received also (date of certificate and period covered), and to record specific advice given to the employee in relation to the sickness absence management procedure.

It is important that disability-related sickness absence is distinguished from general sickness absence that is unrelated to an employee's disability. This information will enable the manager to determine the cause of the sickness absence and possibly the need to make a "reasonable adjustment" if the employee's absence relates to their disability – please see separate Guidance Note on the implications of the Disability Provisions of the Equality Act.

Sickness absence related to maternity or pregnancy should also be identified separately when recording sickness absence – please see separate Guidance Note on maternity/pregnancy-related sickness absence.

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Sickness absence due to accidents or assaults at work should also be identified separately when recording sickness absence – please see separate Guidance Note on accidents and assaults at work.

It is imperative that all sickness absence is correctly and promptly recorded on the SAP system using Employee or Manager Self Service to enable accurate and appropriate monitoring to be undertaken. A variety of standard reports using the SAP system are available for managers through MSS and from local HR teams.

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#### **4: RETURN TO WORK MEETINGS**

It is good practice for a manager to make contact with each employee on their first day back at work following sickness absence. The nature of such contact is likely to vary according to the circumstances in each case. In some instances it may be just a “welfare” contact to enquire after the employee’s health, whereas on other occasions a more formal approach may be necessary to discuss any problems arising from the absence, or perhaps in relation to absence notification. If the employee requests it and it is practical to do so, a female manager may conduct this meeting. In all cases, however, each department will have a female HR officer who can act as an initial contact if required.

Returns to work meetings provide managers with an opportunity to:

- demonstrate that they value the employee’s contribution to the Business Unit;
- show their personal concern for their colleague’s state of health;
- show the Council’s determination to address each instance of sickness absence as a management issue;
- clarify for the employee the impact their absence has had on the Business Unit and their colleagues;
- explore whether an absence has a work-related cause; and
- update the employee’s sickness absence record and decide whether any further action is needed.

Many managers may be uneasy about crossing the line between the work and private lives of their colleagues and discussion of personal illness or contributory non-work related problems can be seen as particularly intrusive. Employees, too, may regard return to work meetings with suspicion, viewing them as a hostile management measure that questions their integrity. It is essential, therefore, that these meetings should be properly prepared and sensitively handled. They should be applied across the board to employees at every level of the Business Unit.

Training in the skills required to conduct return to work meetings fairly and efficiently is available for managers.

If a “fit to return to work” certificate from the employee’s general practitioner is appropriate, this should be sought by the manager at the return to work meeting.

#### **Return to work after long-term sickness absence**

In cases where an employee has had an extended sickness absence, it may be necessary for the manager to consider any re-introduction or induction back into the work environment. This may involve, at its simplest level, general acclimatisation and information updating, but it may require temporary working arrangements, such as shorter working days or a shorter working week. In cases where a major change to the normal working arrangements appear warranted, advice may be sought from your local HR practitioner regarding phasing, timescales and any appropriate pay adjustments. Any such revised arrangements should be agreed and properly recorded. Advice is also available from the Occupational Health Service on temporary adjustments.

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Where a partial or staggered return to work (e.g. two or three days per week or mornings only, etc, for an interim period) is recommended by the Occupational Health Physician on the medical evidence available and this is perceived as a genuine means of assisting employees to improve their fitness and facilitate an earlier return to work than otherwise would be the case, the balance of the week where the employee is absent should be on a paid basis, especially if the alternative would be for the employee to remain absent from work due to sickness. Where a planned staggered or partial return to work is at the employees' request as a matter of convenience or personal preference (i.e. not recommended or supported as medically required by the Occupational Health Physician), the "non-attendance" part of the week should be covered by annual leave or unpaid leave.

Notwithstanding the previous paragraph, however, it is acknowledged that in some business units there may be proper and pressing budgetary reasons why a staggered or partial return to work cannot be arranged on the basis of pay for the balance of the week, even where this is recommended by the Occupational Health Physician. Each such case must be carefully considered on its merits by the Business Manager concerned and a proper case made out and recorded to justify any such decision.

The return to work process will be fully documented at all stages and complete records kept.

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## **5: CONDUCTING SICKNESS GUIDANCE INTERVIEWS**

It is vital that when conducting sickness guidance interviews managers act with appropriate levels of sympathy, understanding and compassion. Sickness absence must always be regarded as “genuine” unless there is clear evidence to the contrary. If the employee requests it and it is practical to do so, a female manager may conduct this interview. In all cases, however, each department will have a female [HR](#) officer who can act as an initial contact if required.

Managers should exercise common sense when following the sickness absence management procedure, particularly in cases of recurring or chronic illness, hospitalisation and with employees who have disabilities. It is advisable that in such cases support and advice should be sought from your local [HR](#) practitioner.

In preparation for sickness guidance interviews managers should:

- check details of the employee’s sickness absence record;
- ensure that the employee is aware of the status of the meeting; and
- provide a private and confidential environment where there will not be any interruption or disturbance.

Issues for discussion at sickness guidance interviews may include:

- causes or symptoms of the illness;
- patterns of sickness absence;
- causes or contributory factors such as work-related or domestic-related issues;
- effect of the level of sickness absence on service delivery and other colleagues who are required to cover the absence;
- potential solutions, including temporary adjustments to working arrangements;
- practical advice or support;
- referral to the Occupational Health Service; and
- setting individual attendance targets and a further review period.

Many of the issues surrounding sickness absence are of an extremely personal and private nature for the employee concerned. It is imperative, therefore, that managers are sensitive to any employee’s difficulties and that they appreciate and respect the strict confidence of any information provided. Managers must ensure that information is only shared with other managers and professional advisers on a genuine “need to know” basis and that inappropriate breaches of confidence may be considered to be a disciplinary matter.

Where a manager has legitimate concerns about the level of short-term sickness absence (especially where the Occupational Health Service has advised that there is no underlying medical reason for the absence), an employee may be required to submit a medical certificate for each and every day of sickness absence. Such certificates are likely to be private medical certificates and the manager must reimburse the charge made by the employer’s general practitioner for issuing them – see separate Guidance Note on medical certificates.

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Managers should aim to reach agreement on an action plan for improving attendance and at the end of each sickness guidance interview the discussion and action points should be recorded.

Sickness guidance interviews are formal management meetings and employees are entitled to be accompanied by a trade union representative or work colleague. Employees should also be afforded the opportunity to have a discussion with a HR practitioner (if required, someone of the same gender) at all stages of the guidance/review process.

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## **6: HOME VISITS**

Especially where an employee is likely to be absent for a long period (possibly more than four or five weeks), it is important that the manager maintains contact with him/her from the first stages of sickness absence. This contact will primarily be of a “welfare” nature and care must be taken to avoid the employee feeling that they are being harassed.

A home visit should be arranged in writing at a mutually agreeable date and time. If there is some reluctance on the part of the employee, it is the manager's responsibility to stress that the visit is both appropriate and beneficial for the employee. Managers should never simply turn up unannounced at the home of an absent employee.

If a visit to the employee's home is inappropriate for any reason, the visit may be arranged at the employee's place of work or another suitable venue but at all times discretion will need to be exercised. Transport for the employee to and from meetings arranged at venues other than the employee's home may be provided if warranted.

All home visits should be approached with sensitivity and with due regard for the employee's circumstances. It is important that managers maintain the confidential nature of sickness guidance interviews when conducting home visits.

## **7: ORGANISATIONAL SICKNESS ABSENCE TARGETS**

Each departmental SMT is required to establish and publish target levels for attendance within their department. These targets should be based on current sickness absence rates which can then be used as a benchmark for judging improvements in attendance.

Some level of sickness absence will always occur in any organisation and setting target absence rates at zero would therefore be totally unrealistic. Clearly, however, sickness absence rates in different departments/Business Units across the Council will differ and the targets managers set should be based on what they already know about those rates.

SMT targets therefore need not be set uniformly across the department but may, where justified, be set differentially – by Business Unit, by other operating units within the department, by occupational groups or by individual line management structures. Where such differential targets are proposed, they must be justified and published in advance. Managers should also be aware that while there may be good reasons for setting varying targets at different levels of each department, the sickness absence management procedure that is applied must be common to the whole Council so that both managers and employees can be clear about what is expected of them and what action will be taken, and when.

## **8: SETTING INDIVIDUAL TARGETS/INCENTIVES TO RETURN TO WORK**

A key element of sickness guidance interviews with employees is the setting of targets/trigger and review points for future attendance. Setting targets/trigger and review points can be a particularly effective management tool in managing sickness absence since they allow managers to be alerted to levels or patterns of sickness absence and provide managers with opportunities to take fair, consistent and appropriate measures.

The purpose is to:

- make the employee aware of management's expectations for future attendance;
- consider the need for offering facilities, e.g. occupational health referrals and counselling services; and
- ensure that the employee is aware of what will happen should the target not be achieved.

Targets must be measurable and may be:

- an anticipated return from sickness absence date (in the case of long-term sickness absence); and/or
- an anticipated maximum absence over a specified time period (e.g. no more than three days' sickness absence in the next six months).

Targets will normally therefore be flexible and variable according to the circumstances of each individual case. They should be set, however, taking account of:

- the reasons for the current or previous sickness absence(s);
- whether or not the Occupational Health Service has identified an underlying medical reason for the sickness absence;
- the amount of sickness absence accumulated in terms of both the number of days and the number of spells of absence; and
- fairness of application.

Whatever trigger points or targets managers set and whatever subsequent action they take, it is clear that anything that impacts positively on the health and welfare of their staff will also impact positively on the efficiency of the Business Unit.

Managers should remember that as part of the review/target setting process, a wide variety of temporary but positive incentives may be employed to facilitate and encourage an early or partial return to work, including:

- a phased return to work (see also Guidance Note on Return to Work Meetings);
- providing taxis to transport temporarily immobile but otherwise fit employees to and from work (e.g. where an employee has broken an ankle);
- reduced hours/part-time working (to avoid travelling at peak times);
- provision of PC, fax, modem, etc, to enable home working (with the employee's agreement and subject to a satisfactory risk assessment and insurance provision);
- relocation to an alternative workplace;
- re-allocation to lighter duties; and
- changing work patterns.

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## **9: RECOGNITION OF GOOD ATTENDANCE**

Rewarding people for attending work when you are already paying them for doing so is a controversial management measure and the Council does not reward employees for attending work (either in the form of cash or in-kind benefits) beyond payment of their salary.

It is important, however, for managers to acknowledge high levels of attendance from employees and this may be done through a variety of ways, including:

- acknowledgement as part of the performance management review process;
- a letter of appreciation and congratulation from senior management; and
- acknowledgement through the publication of employees' names in an in-house journal article on attendance (with the employee's prior consent).

Attendance/sickness absence levels may also be included as criteria for progression under the Performance Management scheme to determine whether or not an increment may be awarded.

Managers should also be aware that attendance may be encouraged where appropriate by emphasising the detrimental effect that an employee's sickness absence has on both the service delivery ability of the Business Unit and the workload and morale of their colleagues in the team who are left to cover the absence, having regard to the reason for the absence and the appropriateness of this proposed action.

## 10: PAY

The entitlement to sick pay applicable to all employees is as follows:

<b>PERIOD</b>	<b><u>Full Pay</u></b>	<b><u>Half Pay</u></b>
During first year of service	1 month	2 months (After completion of 4 months' service)
During second year of service	2 months	2 months
During third year of service	4 months	4 months
During fourth and fifth years of service	5 months	5 months
After five years' service	6 months	6 months

Extensions of sick pay beyond the entitlements shown above should exceptionally only be authorised in cases of terminal illness. In such cases, once the full and half pay entitlements have expired, Business Managers may make a case to the relevant Chief Officer for an extension of full sick pay. Before any such recommendation is approved the Head of Human Resources must be consulted.

Managers should, as part of a sickness absence management timetable for each absent employee, consider all the circumstances of the case, including the effect the absence is having on the business unit's ability to provide an acceptable service, and proactively manage the situation. Where an employee is about to drop from full pay to half pay, that employee must be told in advance. This will require managers to monitor the position of all their employees absent due to sickness. As part of their overall timetable and monitoring, if the circumstances so merit managers can take action under the capability procedure for absence from work due to sickness before an employee's full and half pay entitlement has expired. In all such cases, however, managers should consult their local HR practitioner before taking this action.

The Council's Injury Allowance Scheme gives an entitlement to up to twelve months' full pay to any employee who is incapacitated for work by reason of an injury sustained or a disease contracted in the actual discharge of their duties and specifically attributable to the nature of those duties, irrespective of length of service. Managers should note that this full pay period is a total entitlement (i.e. up to twelve months on full pay and no further months at half pay).

For guidance on pay during a partial or return to work on the specific advice of the Occupational Health Physician, please see separate Guidance Note on Return to Work Meetings.

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## **11: SICKNESS ABSENCE AND STAFF APPOINTMENTS**

Previous sickness absence levels may be used as an indicator of future absence. It is therefore essential that information regarding the sickness absence record of all those who are about to be offered employment (via recruitment to the Council, appointment from within the Council, transfer or promotion) is considered, regardless of whether they are internal or external applicants.

The information to be considered should:

- include the individual's sickness absence record for the last two years;
- be a measure of the number of spells of absence as well as the number of days lost; and
- identify the reasons for each absence.

Managers considering sickness absence as part of the recruitment and selection process should:

- identify the maximum number of days' absence and spells that is acceptable for recruitment to all posts within the Business Unit;
- ensure that employees are aware that excessive sickness absence levels will be a barrier to acting-up, the award of honoraria and secondment opportunities;
- discount any absence related to a disability the employee may have, or any absence related to pregnancy or maternity, when considering the employee's sickness absence; and
- discuss the reason(s) for sickness absence with the applicant prior to making a decision on whether or not to confirm the appointment.

Managers must have due regard to any previous absence that occurred in relation to a disability and/or arising from maternity-related sickness, and make appropriate and reasonable adjustments.

## **12: SICKNESS ABSENCE RECORDING AND STATISTICS MONITORING**

In order to achieve improved attitudes to work attendance, Business Managers must demonstrate to their employees the importance they and the Council place on the issue. Commitment and responsibility for controlling sickness absence must be accepted at all levels throughout the organisation and for this to happen a pre-requisite must be effective and accurate absence recording, monitoring and feedback. Chief Officers and Business Managers must accept overall responsibility for improving the sickness absence levels within their department, division, business unit or section and will be held to account for lack of achievement of the targets. These senior managers are also responsible for reviewing the targets and amending them throughout the year.

The Chief Officer Team sets an annual corporate target to aim for across the Council based on a reduction to a specific level of sickness absence.

Each departmental SMT is required to establish and publish target levels for attendance within their department, albeit that these target levels may vary across individual business units and/or other organisational units within the department (see Guidance Note No.7). SMTs will therefore need to monitor attendance on a regular basis for each of the (differential) groups within their department. These departmental targets are more likely to be based on a progressive percentage reduction rather than a reduction to a specific level.

DMTs will need to monitor sickness absence at a different level from CMT or SMTs, as will individual section heads. Business Managers are advised to formally review with their section heads on a monthly basis the levels of sickness absence and the action taken by the section heads in respect of a specified number of identified worst cases. As part of the sickness absence management procedure, section heads are required to regularly review each individual employee's attendance.

Thus, section heads are required to monitor sickness absence levels on a monthly basis, as are Business Managers, whilst it may be appropriate for Chief Officers to undertake a review of sickness absence levels of each of their business units on a quarterly basis. As part of their quarterly review, Chief Officers are advised to look for patterns or trends of sickness absence on an individual, business unit and departmental basis. A range of standard reports are available to managers from the SAP system through Manager Self Service and from local HR teams .

In addition, CMT should undertake such reviews no less than half-yearly, comparing departments' performances against their targets.

The Head of Human Resources will produce an annual report to Members reviewing corporate progress made and identifying a strategy for the forthcoming twelve months. This annual report will attempt to include the true cost of sickness absence, including occupational sick pay, statutory sick pay, additional costs of employing temporary or agency staff, additional overtime costs, the effect on productivity and quality, management time dealing with absences, costs of referrals to the Occupational Health Service and the lowering of morale of the absentees' colleagues. The report will also attempt to include a benchmarking of the Council's performance against other local authorities and the private sector.

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### **13: REFERRALS TO THE OCCUPATIONAL HEALTH SERVICE**

Reports from the Occupational Health Service provide valuable and independent information for managers to consider in determining an appropriate response to an employee's absence from work and/or reported medical condition.

An external provider, currently Atos Healthcare, provides the Council's Occupational Health Service, based at Keats House, 24 – 26 St Thomas Street, London SE1 9RS (Telephone: 0845 371 0571).

Professional advice should always be sought if there is reason to believe that an employee may have an underlying medical condition, or if the level of sickness absence is calling into question the ability to work effectively. It is important to note that the Occupational Health Service can advise on both physical and mental/emotional conditions.

A referral to the Occupational Health Service must be made properly and with good reason. It should not be used as a form of threat or punishment. Informed Consent (where required) needs to be obtained as part of an Occupational Health Referral to ensure that the employee is informed of: the reasons for a referral, the possible outcomes, their legislative rights, actions should GP or Specialist reports be required, and to obtain the employee's telephone contact details.

All referrals to Atos Healthcare should be made using the Cosmas Vista web portal. The web portal can be accessed at the following address: <http://www.ohportal.co.uk> Cosmas Vista is an online referral system giving managers direct access to Atos Healthcare's Occupational Health Services through the internet. Once managers have an account they will be able to access Cosmas Vista 24 hours a day from any computer with internet access. Managers without an account should liaise with their departmental HR to be set up.

The system will allow managers to make referrals to Occupational Health for advice, view previous referrals made through Cosmas Vista, submit and track referral documents, view referral progress and history, view real time updates to referrals, and allow instant access to download final and outcome reports as soon as they are produced.

As part of the referral information provided through Cosmas Vista, the manager may want to ask the Occupational Health Service a number of specific questions in relation to the employee's health/sickness absence. Although there will be questions and prompts available on the system for guidance only, the most common questions could include:

- Does the employee have an underlying medical condition that affects their attendance at work?
- Is the employee fit to undertake the full range of duties associated with their post?
- When is the employee likely to be able to return to work?
- What is the anticipated level of sickness absence in the future?
- How long is the current sickness absence/medical condition likely to continue?

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- Does the employee's medical condition constitute a disability under the Disability Provisions of the Equality Act?
- What forms of practical assistance or support can be offered to facilitate an effective return to work?
- If the employee is unable to undertake the duties of their current post, please advise what duties/types of work can be undertaken; and
- Is medical retirement an option?

The manager making the referral must ensure that the following documentation is forwarded to Atos Healthcare, following the submission of a referral via the web portal:

- Recent sickness record either from SAP or other records – ideally the last 2 years\*
- Job description as necessary to supplement information already supplied.

\*indicates mandatory documents.

If the mandatory document is not received by Atos Healthcare within 8 calendar days of the referral being submitted, the referral will be withdrawn.

Processing of the referral will only commence once all necessary documentation has been received. Atos Healthcare will remind the referring manager after 3 days were information remains outstanding.

Referring managers who need to fax or post supporting documents will need to download a fax header to accompany the document. This contains details of where to fax or post the documents. All documents faxed to Atos Healthcare will be sent to a Fax Server. The fax server converts the document to an electronic format so that it can quickly and easily be validated by Atos Healthcare and submitted into the employee's electronic medical record.

Female employees may request a female practitioner and should advise their manager accordingly at the time of the referral in order that it may be incorporated.

Upon receipt of the Occupational Health Service report, it is essential that the manager holds a sickness guidance interview with the employee to discuss the content of the report and to determine whether any further action is required. Clearly, the interview will be most effective if it is conducted without delay.

If an employee declines to give consent, they should be informed that their national conditions of service make provision for such referrals and that such action would not be in their best interest. Management may proceed on a course of action without the benefit of Occupational Health Advice and as a result decisions may be made about the employee's employment without the benefit of OH advice as Atos Healthcare are unable to process referrals without consent.

In this event employees should be asked to provide their written reasons for this which can be captured on the referral form and signed. Further advice can be sought from Human Resources.

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## **14: REPORTS FROM THE OCCUPATIONAL HEALTH SERVICE**

Reports from the Occupational Health Service will provide valuable and independent information to managers to assist them to determine appropriate responses to employees' sickness absence. It is essential that the manager holds a sickness guidance interview with the employee to discuss the report from the Occupational Health Service without undue delay. If the employee requests it and it is practical to do so, a female manager may conduct this interview. In all cases, however, each department will have a female HR officer who can act as an initial point of contact if required.

### **IF THERE IS AN UNDERLYING MEDICAL REASON FOR THE ABSENCE:**

The medical opinion should be considered in the light of service needs, the likely duration of the sickness absence and whether a full recovery is expected, as well as the requirements of the Disability Provisions of the Equality Act.

Possible responses to the Occupational Health Service report would include:

- no further action;
- further review period;
- job redesign;
- redeployment;
- temporary relocation;
- ill health retirement where comparable employment is not an option; and
- termination of employment with notice.

### **IF THERE IS NO UNDERLYING MEDICAL REASON FOR THE ABSENCE:**

The employee should be advised of the Occupational Health Service's view and asked for an explanation of the absence.

If the employee provides an explanation satisfactory to the manager, the manager should advise the employee that s/he intends to discuss options for further action, including setting a further review period and attendance targets, with their local HR practitioner. This decision should be confirmed in writing to the employee.

If the employee does not provide an explanation satisfactory to the manager, the manager should advise the employee that this might give rise to formal action being considered under the Council's capability or disciplinary procedures. This decision should be confirmed in writing to the employee.

The process of referral to the Occupational Health Service and receiving a report back should normally take no longer than an average of 10 working days from the point at which all information is received from the referring manager to receipt of report on line. Where further medical reports are sought from the employee's general practitioner or specialist opinions are deemed necessary by the Occupational Health Service reports should be received within an average of 20 working days. If no response has been received after 18 days the manager will be alerted and their view sought on how to proceed.

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In accordance with the Access to Medical Reports Act 1988 the Council must gain an employee's written permission before they approach their general practitioner or hospital consultant for a medical report. Should this be needed, the written permission will be sought by Atos Healthcare on behalf of the Council.

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## **15: CONFIDENTIAL COUNSELLING & SUPPORT SERVICE**

There may be occasions when an employee expresses a wish for professional counselling to deal with particular difficulties or where a manager believes that an employee would benefit from this service. On such occasions it may be useful to suggest that the employee contacts the Council's confidential counselling & support service on 0800 0217 817, provided by the Occupational Health Service contractor.

The service is available free to employees 24 hours a day, 365 days of the year. A team of trained practitioners offer confidential, independent and unbiased information and guidance. They provide this in a range of ways – by telephone, in writing and through face-to-face appointments with counsellors.

Counselling services may cover stress, anxiety, drug or alcohol abuse, debt, relationships, childcare, trauma, bereavement and many other issues that could have an adverse impact on the employee's ability to carry out their job. Employees can seek help from the counselling service themselves or the OH service may refer them (with their agreement).

The service is unable to advise employees on pay and human resourcing issues: all enquiries should be made via the local HR Department.

If counselling is not an appropriate response to the problem presented by the employee, the Occupational Health Service will explain the reasons why to the employee. Where any additional costs arise, for example if the Occupational Health Service feel that referral to a particular programme is beneficial, this can only be undertaken with the agreement of the manager. Such arrangements are, however, relatively rare.

It is a confidential service between the counsellor and the employee and reports/information are not provided to the manager. Managers should therefore see the confidential counselling service as a means of independent support. No personal information will be provided to the Council. Confidentiality may be compromised in exceptional circumstances only, i.e. the client is assessed as being a harm to themselves or to others, or the client is allegedly involved in a serious crime or where the law requires a disclosure. Should any of these situations occur Atos will always strive to discuss it first with the employee.

## **16: IMPLICATIONS OF THE DISABILITY PROVISIONS OF THE EQUALITY ACT**

The Equality Act makes it unlawful for employers to discriminate against employees because of the protected characteristics, which includes Disability. It impacts on sickness absence management in two key ways:

- under the Act, an employer unlawfully discriminates against a disabled person where, for a reason “related” to their having a disability, they receive unjustified less favourable treatment than they would otherwise receive; and
- an employer also unlawfully discriminates if they fail unjustifiably to meet any duty to make a “reasonable adjustment” in relation to a disabled person. (Employers are required to take “reasonable steps” to counteract the effects of their employment arrangements (e.g. sickness absence management policies and procedures) where they pose a “substantial” (i.e. not minor or trivial) disadvantage to a disabled person).

Under the Equality Act a disabled person is defined as a person with:

**“A physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities.”**

There is no requirement for managers to become experts on disability any more than is the case with other medical conditions – this should be left to advice from relevant medical personnel (general practitioners, consultants and the Occupational Health Service).

Under sickness absence management, the management concern is with the implications of the employee’s absence. Under the Equality Act, the concern should be to avoid discriminatory treatment whilst at the same time managing the disabled employee in terms of sickness absence management objectives. In both cases, managers need to consider the effect of the person’s illness/disability in terms of their employment. They then need to respond appropriately within the context of the individual and particular circumstances of, or surrounding, the post involved.

### Disability and Sickness (Related) Absence

**It is important to distinguish between general sickness and disability-related sickness absence.**

Disability should not be automatically associated with sickness. Unfortunately, the term “disability” is often confused wrongly with the concept of illness/poor health and consequently “sickness”. It is important for managers to realise this, as confusion could cause an affront to many disabled employees who quite rightly do not consider being disabled a “sickness”. This is not to say, however, that someone may not have a disability which is in practice associated with some level of sickness absence due to incapacity. For example, an employee with severe asthma or epilepsy – covered under the disability provisions of the Equality Act – who is unable to attend work due to an attack, will be absent due to disability-related sickness. (In practice, however, it is important to stress that many such disabilities will in fact be “controlled” by medication or treatment negating the need for sickness absence.)

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The same disabled employee could nevertheless also be absent due to an upset stomach, flu, a sprained ankle or a broken leg.

The key issue in relation to sickness absence management is that, where the effects of an employee's disability result in a need to be absent from work due to illness which is directly associated with their disability this will need to be accommodated within the terms of the Equality Act. A failure on the part of the Council to acknowledge these needs could amount to a failure to make a "reasonable adjustment".

**General sickness absence – which can apply to disabled and non-disabled employees alike – is unaffected by the disability provisions of the Equality Act and the Council's normal sickness absence management procedures will apply.**

#### Less favourable treatment

Under the Equality Act, disability discrimination is unlawful. Managers may inadvertently discriminate in the way that the Council's "standard" procedures are applied to a disabled employee or in the way that a disabled employee is selected or dismissed for redundancy. A relevant example of such discrimination would include the dismissal of a disabled employee on grounds of a poor sickness record where in practice their general sickness absence level is not greater than other employee. Under the Equality Act it may be unlawful discrimination if a disabled employee is dismissed, even on the basis that they have a greater level of sickness absence than other employees, where this is disability-related and the manager cannot show that this is justifiable.

It would be necessary for the manager to demonstrate that any less favourable treatment under the Equality Act is justifiable. Under the Equality Act less favourable treatment may be justifiable where the reason for the treatment was both material to the circumstances and substantial. Business Units' working arrangements should not therefore subject disabled employees generally or individuals to less favourable treatment per se when compared to the treatment of non-disabled employees or employees with different disabilities.

#### Reasonable adjustments

Under the Equality Act the Council has a positive duty to make "reasonable adjustments" where any aspects of working arrangements (including premises) place a disabled employee at a substantial disadvantage.

This key obligation under the Act is likely to arise in two respects within the sickness absence management context:

- firstly the job itself may need to be adjusted in order that the employee may return to work following a period of sickness absence; and
- secondly, it may be deemed a "reasonable adjustment" to accept that a disabled employee will need some level of absence from their work.

The disability provisions of the Equality Act sets out a range of specific types of "reasonable adjustments" that an employer may need to make. These include:

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- making adjustments to premises;
- allocating some of the disabled employee's duties to another person;
- transferring the employee to fill an existing vacancy;
- altering the employee's working hours or work pattern;
- assigning the employee to a different place of work;
- allowing the employee to be absent during working hours for rehabilitation, assessment or treatment;
- giving the employee, or arranging for them to be given, training;
- acquiring or modifying equipment;
- modifying instructions or reference manuals;
- modifying procedures for assessment or testing;
- providing a reader or interpreter; and
- providing additional supervision.

General advice on employment issues in respect of people with disabilities, as well as practical advice and assistance on any adjustments, etc, necessary is available from the Employment Services' Disability Services Team based in local Job Centres.

The basis of the requirement to make a reasonable adjustment is to prevent the disabled employee from facing a "substantial disadvantage" compared to employees who do not have their disability. This is to give the disabled employee a fairer opportunity to be assessed on their true merits and not purely from the perspective of their disability. Where even after an adjustment is considered or made the employee still cannot fulfil the requirements of the job, however, or where the adjustment is not reasonable for the employer to make, then in these circumstances it need not be carried out by the employer.

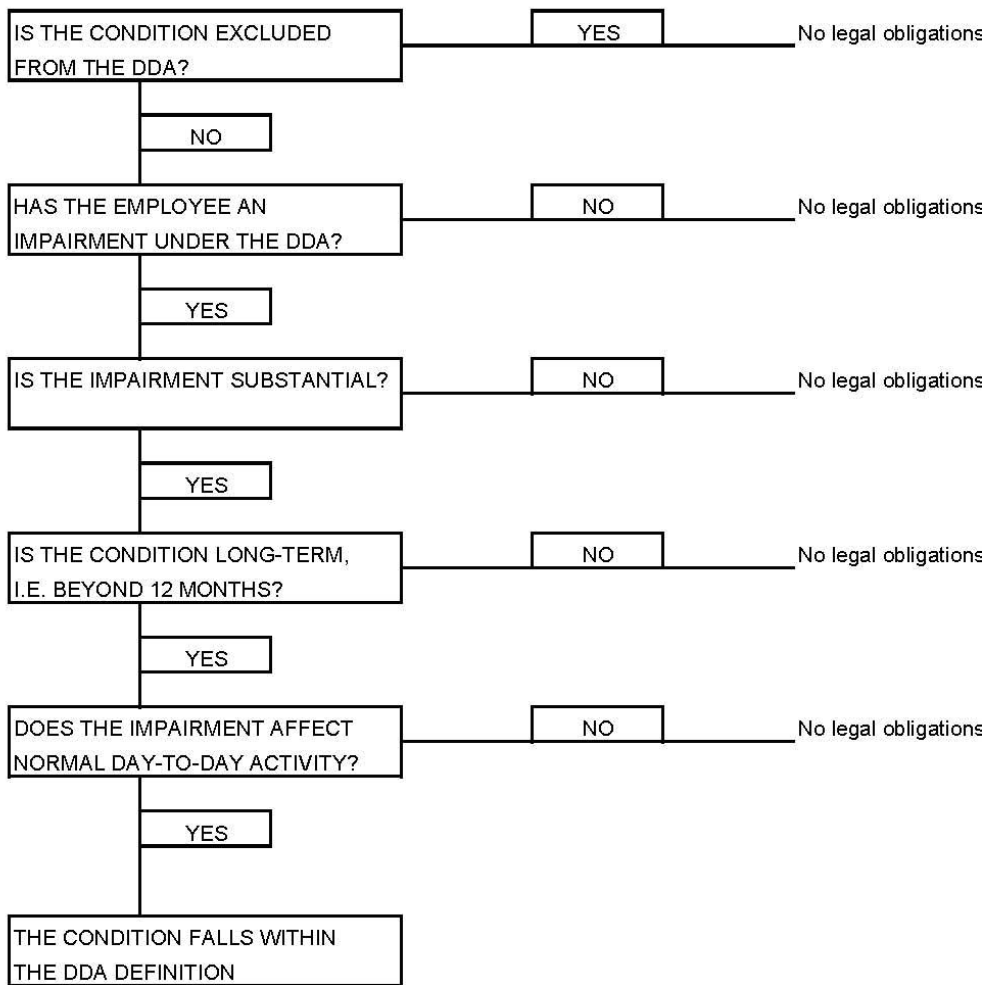
The assessment of "reasonableness" will be based on all the relevant circumstances including effectiveness, practicability and financial consequences. (An adverse reaction from other employees will not be a justifiable reason for not making an otherwise "reasonable adjustment"). The Council, being a large employer, is likely to face a higher burden of proof in this regard.

Business Managers should be aware that their local HR practitioners are able to advise and support them in respect of sickness absence management of disabled employees.

### **FLOWCHART:**

See next page.

(Definition of disability)



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## **17: ACCIDENTS AND ASSAULTS AT WORK**

Sickness absence due to accidents and/or assaults at work (or those which are directly related) should be managed in exactly the same way as all other sickness absence, although for pay purposes they are treated differently – please see separate Guidance Note on Pay. Such absences must be identified and recorded on the return to work form and managers should ensure that required health and safety documentation is completed.

In all other aspects, the procedure should be applied as for general sickness absence in order to ensure that employees are dealt with on an equitable basis. Managing sickness absence is essentially about ensuring and maximising attendance rather than being concerned with the reason for the attendance.

Managers are also advised to familiarise themselves with the Council's Policy on Violence, Aggressive Behaviour and Harassment towards Employees. Further advice is available in the first instance from Departmental Health and Safety Advisers, or the Health and Safety Strategy Manager based in HR.

## **18: MATERNITY/PREGNANCY-RELATED SICKNESS ABSENCE**

Sickness absence that is maternity/pregnancy-related should be recorded separately from general sickness absence or disability-related sickness absence. The reason for keeping maternity/pregnancy-related sickness absence separate is that women have a number of statutory rights and protection from unfair dismissal relating to these issues. Although unacceptable levels of absence, rather than the reason for it, is the issue when considering capability action, care must be exercised by managers when recommending dismissal under the Council's capability procedure, therefore, if some or all of the sickness absence is maternity/pregnancy-related.

To dismiss an employee for a pregnancy-related reason is automatically unfair and such a dismissal is also likely to constitute unlawful sex discrimination. The European Court of Justice has determined that "during maternity leave ... a woman is protected against dismissal on the ground of her absence." It is a small step to move from this position to accepting that this will also apply to the dismissal of an employee for a pregnancy-related illness at any stage prior to and during her maternity leave.

Once the statutory maternity leave period has expired, however, the position changes. In the case of an illness which arises or continues after maternity leave, it is necessary to distinguish an illness whose origin lies in pregnancy/maternity from any other illness which might lead to the dismissal of a man under the same conditions.

Dismissal due to unacceptable absence is included in the statutory definition of capability and when hearing a complaint of unfair dismissal for a capability-related reason, an employment tribunal has to decide whether or not the employer has acted reasonably in all the circumstances. If using attendance records as a criterion in such a case, however, unfair dismissal and unlawful discrimination can occur if a woman's absence for pregnancy-related matters is equated with and included as absence due to sickness. The argument is that once the sickness absence is "protected" it cannot be open later for the employer to treat it as unprotected by including it as a period of absence to count against the employee when using attendance records as a criterion for capability dismissal. The same argument applies, of course, for selection for ill-health or redundancy dismissals.

## **19: DOCTORS', DENTAL AND HOSPITAL APPOINTMENTS**

Requests from employees for time off to attend doctors', dental and hospital appointments must always be accompanied by an official appointment letter or card.

Appointments should always be made in order to minimise disruption to attendance at work.

Employees working “standard hours” should be required to make up the equivalent time they are absent from work. Where a scheme of flexible working hours is operating, employees should be encouraged to make and attend appointments using the variable working times or time off available under the scheme.

Where an employee needs to attend a series of appointments for ongoing treatment or consultation, such arrangements should be made known to the manager as early as possible. If appropriate, such absence will be recorded as sickness absence and dealt with under the Council's sickness absence management procedure. If the employee's appointment is for treatment prescribed by an appropriate medical practitioner or health worker and is necessarily health-related, time off will be allowed. If the treatment is not prescribed by an appropriate medical practitioner or health worker, the employee will be required to attend in his/her own time.



## **20: SICKNESS ABSENCE AND CAPABILITY**

When faced with an employee who has unacceptable levels of sickness absence, it is important to establish his/her pattern of absence and to categorise it as either long-term or persistent short-term absence. Any unauthorised absences need to be dealt with through the Council's disciplinary procedure as matters of misconduct. In contrast, cases of genuine sickness absence must be viewed as issues relating to the capability of the employee in question to fulfill their contractual responsibilities.

Absence due to sickness is a potentially fair ground for dismissal under employment legislation. The Employment Rights Act 1996 covers dismissal of an employee on the ground of their capability, which is defined by reference to their "skill, aptitude, health or any other physical or mental quality".

Where cases of long-term sickness absence are involved, an employer has a duty to act fairly and to consider all the facts of the case before coming to a decision to dismiss. Ultimately, the key question is whether, in all the circumstances, the employer can be expected to wait any longer for the employee to return to work and if so, for how much longer? Managers therefore need to assess the position with reference to such factors as:

- the length of the employee's employment and their attendance record up until their present illness;
- the nature of the employee's job and the position they occupy within the Council;
- the effect of the employee's continued absence on the Business Unit and any need to engage a replacement;
- the exact nature and length of the employee's illness and the prospects and likely timescale of their recovery; and
- the terms of the employee's contract of employment in relation to sickness absence, including any entitlement to sick pay.

Proper investigation of the medical condition by the Business Manager and full consultation with the employee is imperative for a dismissal to be fair. Notwithstanding the need, however, for a medical assessment and prognosis relating to the employee to be obtained, the decision whether to dismiss is ultimately a management one, with the medical evidence simply representing one important factor.

In cases involving short-term frequent sickness absence, where there is often no consistent underlying medical cause, medical reports may be of limited use and the matter may best be treated as one of the employee's unreliability to do their job. In such cases the employee should still be told that their overall attendance record is giving management cause for concern and that unless it improves it may lead to termination of their employment. Persistent intermittent absence is capable of leading to a fair dismissal under the Employment Rights Act not by reason of capability, but for "some other substantial reason".

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Where an employee becomes ill and unable to carry out their normal contractual duties, it is incumbent on the Business Manager to consider whether that employee can be switched, either temporarily or permanently, to alternative work before seeking to dismiss them. This does not, however, mean that a special job has to be created for such employees.

The situation may be further complicated by the disability provisions of the Equality Act and a separate Guidance Note has been prepared to cover these implications. Managers must be aware of their responsibilities under the Equality Act

Finally, managers should be aware that it is perfectly acceptable for attendance to be one of the criteria for assessing performance and considering progression under the Council's performance management arrangements so long as employees are aware of this and the requirements are reasonable and applied fairly and equitably.

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## 21: MEDICAL RETIREMENT

Where an eligible employee retires early on the grounds of ill-health, s/he is entitled to immediate access to their pension, with the option of a lump sum, in accordance with the Local Government Pension Scheme Regulations.

Employees must be members of the Local Government Pension scheme and there is a qualifying period of 3 months of continuous contributory membership or the member must be credited with a transfer.

(Charging for the cost to the pension fund will be confirmed separately). Employees who are ill-health retired are entitled to pay in lieu of notice, which is not subject to income tax or National Insurance deductions.

In 2008 amended Regulations in respect of ill-health retirement were introduced. From 1st April 2008 where the Council determines to terminate employment on the grounds that the person is incapable of discharging efficiently the duties of his/her current job and has a reduced likelihood of obtaining gainful employment (in local government or elsewhere) before normal retirement age, he/she would be classified under the following tiers:

- Tier 1 - the person has no reasonable prospect of obtaining gainful employment before age 65. Benefits would be based on accrued membership + 100% of prospective membership between leaving and age 65
- Tier 2 - the person is unlikely to obtain gainful employment within a reasonable period of time but is likely to be able to obtain gainful employment before age 65. Benefits would be based on accrued membership + 25% of prospective membership between leaving and age 65.
- Tier 3 - the person is judged to be permanently incapable of their local government authority employment but is capable of undertaking gainful employment elsewhere in the workforce in a reasonable period after cessation. It will be reviewable, i.e. stops if the person gets a job.

'Gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months. The judgment is whether the person's condition prevents them obtaining gainful employment, other factors, e.g. economic climate, motivation, or skill, don't apply. 'Reasonable period' means a period of 3 years.

The process of early retirement under ill health provisions and the employee appeal rights are described in the [BMHB chapter on Retirement](#). However the following principles apply:-

- Employees are terminated at the earliest possible date once retirement is confirmed, with pay in lieu of notice.
- Employees have the right to appeal against the termination and/ or the tier on which they are placed.

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- There is protection of pension benefits for LGPS members who are aged 45 or over on 31st March 2008. In this scenario, the occupational health decision still remains (i.e. relevant tier). However the protection element arises from how the LGPS provisions affect the payments.
- There is a transitional period between 1st April – 30th September 2008, during which time those who qualify for ill health retirements receive benefits no less favourable than would have applied if the leaving date was on or before 31<sup>st</sup> March 2008.
- There is protection for those employees who reduce their contractual hours, as a direct result of the ill health condition which leads to the termination of their employment.
- There will be no reviews between tiers 1 and 2. However the continuance of benefits for staff on tier 3 will be reviewed as noted below.
- An employee who leaves local government employment as a 3rd tier member will be entitled to their annual accrued benefits payable as a pension for such time as they do not obtain gainful employment or until the employer stops payments following the review. The 3rd tier member will be required to notify the Council when employment is found providing details, including pay, working hours and length of contract of that employment, and the employer would then stop payments if this was 'gainful employment.' If payments have continued when gainful employment has been found, the Council has the power to recover any overpayment from the 3rd tier member. In liaison with FMS, the Pensions Service will be responsible for recovering any overpayment from the 3rd tier member.
- If 3rd tier payments cease, there should be no reinstatement. The definition of the status of a 3rd tier member whose benefits are stopped is 'a pensioner member with deferred benefits'.
- The previous employer is required to undertake a review when payments have been made for 18 months if payments are still continuing at that point. This will be done by the Pensions Service. Should the employee require a review prior to or post the 18 month review, this may be granted if there is new information. If the employer decides, from the information provided that gainful employment had been obtained, the 3rd tier payments will be stopped. Tiers 1 and 2 are awarded on a permanent basis for the lifetime of the member. Tier 3 will not, under any circumstances, be paid for longer than 3 years.
- LGPS Members who have left the Council can still apply for immediate payment of pension under ill health provision (deferred pension); no enhancements currently apply.

Although in many cases managers' ability to influence ill-health retirement is limited by the medical advice received, it is important to remember that early retirement is costly to the Council and any early retirement, including that due to ill-health, should only be approved as a last resort after all other options have been investigated and exhausted. In every case where early retirement is being considered a full appraisal of long term savings, costs and ongoing budget reductions, etc, must be prepared, together with details of the alternative actions that have been considered. The early retirement procedure contains a pro-forma for this purpose.

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All decisions on authorising early retirement must be taken at Head of Service level or above. In the case of ill-health retirement, a strict business case is not appropriate but a well thought through argument is required, i.e. a record of decisions taken, details of alternative posts, arrangements or working practices considered, etc. Any statutory requirement under the disability provisions of the Equality Act (see separate Guidance Note) must be considered and a certificate of permanent ill-health from the Council's Occupational Health Physician must be attached to the pro-forma.

In each case of possible ill-health retirement the Occupational Health Physician must agree that the employee is permanently incapable of discharging efficiently the duties of his/her employment with Southwark Council (see above) on medical grounds under a specific tier. Before considering medical retirement the condition and prognosis of the employee should be taken into.

It is usual for the Occupational Health Physician and the employee's general practitioner/consultant to agree that ill-health retirement is appropriate and once a decision has been taken by the appropriate manager to authorise ill-health retirement (taking account of all the above requirements), that decision is implemented and the employee cannot contest it (for example, on the basis that the pension that will be payable is unsatisfactory). In the event that the employee's general practitioner does not agree with the Occupational Health Physician, the matter must be referred to an independent and appropriately qualified medical practitioner for a third opinion.

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## **22: PREVENTATIVE STRATEGIES/PROMOTION OF HEALTHY LIVING**

The Council has already adopted a number of initiatives aimed at staff welfare and health promotion. Examples include the no smoking policy, executive medicals for senior managers and Lifewise roadshows. Such measures, whilst perhaps not having a direct effect on reducing sickness absence levels, should have a longer term impact by eventually leading to reductions in employee turnover, sickness absence, accidents and injuries at work, stress levels and recruitment costs.

Managers can adopt and promote a number of health and safety measures and staff welfare and health promotion initiatives aimed at sickness absence prevention and improved employee motivation, including:

- implementing, where appropriate and practical, stress reduction initiatives, e.g. periodic rotation of employees away from pressurised front line positions;
- considering a range of flexible working arrangements for employees;
- making available information to enable employees to change their behaviour, e.g. advice on healthy eating, sensible drinking and other health promotion issues;
- altering and improving the environment where employees work;
- carrying out regular risk assessments of working practices, equipment, materials, environment and work stations (which are, of course, mandatory and not optional); and
- increasing employee motivation by, for example:
  - agreeing reasonable work targets;
  - acknowledging good performance and success;
  - providing training and development opportunities;
  - redesigning jobs to increase variety within them;
  - consulting employees on methods of working and wider issues that affect them;
  - where appropriate, giving employees more control over what they do;
  - undertaking local employee attitude surveys; and
  - fostering an atmosphere of trust and mutual respect.

# **Guidance for Managing Employee Alcohol & Substance Misuse**

## **1. Introduction**

The Council recognises that the management of issues associated with the misuse of alcohol and other substances is a sensitive matter. Such misuse can have a damaging effect on the health and safety of employees and a detrimental effect on the quality of Council services. Whilst the Council has well-established guidelines designed to promote employees' health and safety at work, this guidance aims to provide an effective framework by which such issues can be identified and addressed.

Further advice on managing alcohol and substance misuse should be sought from HR Services.

## **2. Scope**

This guidance applies to all Council employees. Rules and standards as set out below are also intended to apply to people working on Council premises as contractors, or agency workers.

## **3. Definition**

Substance misuse is the use of illegal drugs, the misuse of alcohol, the misuse of prescribed drugs, other behaviour changing drugs and substances such as solvents. Note: - certain conditions are not to be regarded as impairments for the purpose of the Equality Act. This includes addiction to or dependency on alcohol or any other substance.

## **4. Effect on Council Image**

The Council has a duty to provide effective services and consumption or misuse of alcohol or other substances could make that service less effective, either by the standard to which employees carry out their duties, or by their absence or timekeeping. Employees' behaviour may also be affected by alcohol/substance misuse to the detriment of their work relationships both with users of the service and the employee's colleagues.

Many employees come into direct contact, either face to face or by telephone, with Council customers. Employees in contact with the public have a personal responsibility to maintain the Council's reputation, which must not be impaired by behaviour associated with alcohol or substance misuse. It is important to emphasise that even a relatively small amount of alcohol consumed by an employee, may be apparent and may present a negative image of the Council. Also, if noticed by colleagues it may lead to the impairment of working relationships.

At its most serious level, misuse of alcohol or other substances can also seriously put at risk an individual's personal safety, that of other employees and any other person with whom they come in contact.

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## 5. Principles & Rules on Alcohol Consumption

This guidance is not concerned with social drinking where this has no effect on work performance and/or behaviour. When there is such effect however, management should address within the framework of this guidance.

This guidance does not state that alcohol may never be consumed at work as it is recognised that this may occur during social events (i.e. colleague farewells) but in moderation; the Council would encourage the provision of healthy refreshments on such occasions which are alcohol free, and at all times employees must maintain required standards of conduct unimpaired by alcohol consumption. Nonetheless, this guidance outlines quite clearly why the consumption of alcohol at work shouldn't occur and gives management the discretion to proceed as appropriate given the individual circumstances of each case.

There are clearly certain roles within the Council where the consumption of alcohol whilst at work shall never be tolerated. The occupations concerned would be determined by risk assessment and should include driving Council vehicles, working at heights, operating machinery and work caring with vulnerable people.

The Council has a duty to set standards of conduct for employees, and behaviour associated with alcohol and/or substance abuse may be regarded as misconduct or poor performance and mean employees are liable to disciplinary or capability action.

It is important that managers' responses reflect individual circumstances and that these are addressed through the appropriate procedures. This is a sensitive area of management responsibility and HR must be involved before a decision on the procedural route is determined. A record of all stages of procedures adopted under this guidance must be kept.

## 6. Identifying a Problem

The manager is likely to be among the first to detect an alcohol or substance abuse problem with an employee. Some of the signs that may indicate an alcohol and/or substance misuse include:

- **Poor work performance** including difficulty in concentration, alternate periods of high and low productivity, increasing general unreliability and unpredictability, missed deadlines, mistakes due to inattention or poor judgement, difficulty in recalling instructions, details, improbable excuses for poor work performance;
- **Uncharacteristic and unacceptable behaviour** including over-reaction to real or imagined criticism, unreasonable resentments, irritability, deteriorating relationships with co-workers, borrowing money from co-workers, avoidance of managers or colleagues;
- **Increased absence and/or tardiness** including multiple instances of unauthorised leave, excessive sick leave; frequent Monday and/or Friday absences, excessive lateness arriving for work, or returning from meal breaks;
- **Reporting to work under the influence** including coming to work or returning from lunch in an obviously inebriated condition, smelling of alcohol;
- **Physical signs of deterioration** including increasingly unkempt appearance, lack of personal hygiene, hand tremors;

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- **High accident rate** including accidents at work, at home or when travelling to work.

It is sometimes other employees who notice and become concerned about a colleague's behaviour and who observe signs of alcohol or other substance misuse that puts the Council's reputation and/or health and safety at risk. If this does occur, their concerns should be raised, in confidence, with the relevant Business Manager or with their local HR team.

## **7. Providing Support and Guidance**

The aim of this section is to outline the options available to managers that detect an alcohol or substance abuse problem with an employee.

### **7.1 Use of the Capability Procedure**

If an employee's work starts to deteriorate and the manager thinks that alcohol or other substances may be a factor, the manager will be expected to take immediate positive action whenever inappropriate drinking or other substance related problems are brought to his/her attention and will not allow it to continue without following it through in the most sensitive and appropriate manner.

Where employees develop a dependency on alcohol or other substances, it may be addressed as a health problem through the sickness capability procedure, and if appropriate, emphasis will be on guidance and support to assist recovery. As with any performance or conduct problem, the manager should keep a note of the performance, conduct, absence and lateness problems.

As this is a sensitive and difficult issue to deal with, as soon as a manager becomes aware or is made aware that a member of their staff may have an alcohol or substance related problem the manager should contact their HR manager to inform them of their concerns about the employee.

Following their discussion with HR and as with any performance or conduct problem, the manager should then:

- Arrange a private meeting with the employee and explain their right to trade union representation;
- Discuss the work-related problems with the employee, restricting the discussion to issues concerning work;
- Try to obtain agreement that the problems exist with their work and that these problems must be dealt with;
- Ask the employee for their view of the problems, their nature and reasons behind them;
- Encourage the employee to seek help via the Occupational Health Service or other appropriate sources of help. All requests for help must be in strict confidence.

It is the responsibility of the employee to decide whether or not to receive specialised counselling and/or treatment. No employee will be required to comply with a treatment programme that s/he does not want.

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If an employee rejects an offer of assistance the manager will make a full assessment of the situation and decide whether it is appropriate to take action at this stage or allow the employee to continue working in the knowledge that the situation will be constantly under review and that capability action may be necessary if there is no improvement in performance/conduct.

In cases where an individual is receiving specialised counselling and treatment s/he may take sickness absence. It should be appreciated that treatment interventions in the management of alcohol or other substance related problems are rarely time limited. It is very usual for an individual to need a period of intense counselling and support, followed by a period where the individual may need to attend sessions of counselling support or follow-up care. This approach ensures that individuals may return to work as rapidly as appropriate as well as continuing to receive support during the first few months after the problem has been identified when the chances of relapse are highest.

In the event of a relapse after treatment, a further opportunity of help and treatment may be offered if deemed appropriate.

Although the Council wishes to support and help staff identified as having alcohol or other substance related problems wherever possible, the Council will be obliged to utilise the capability procedure where all offers of help and support have been rejected by the individual and/or where an employee's conduct, standards or work performance continue to be unacceptable.

## **7.2 Use of the Disciplinary Procedure**

Each case must be looked at on its merits and HR involved to help determine whether disciplinary or capability action is appropriate.

The Council has a responsibility to ensure that standards of work and conduct are maintained in the workplace and as such, the Council will be obliged to deal with the following situations in accordance with the Disciplinary Procedure: -

- Where the manager considers that the individual may be putting himself/herself, other employees, contractors or members of the public at risk.
- Where alcohol consumption or other substance abuse on isolated or random occasions leads to negligent behaviour and/or behaviour contrary to appropriate standards and/or conduct, with due consideration to all relevant factors.
- Where there is deliberate disregard for personal safety and that of others and or disobedience associated with any safety instruction and involvement in any criminal behaviour associated with illegal substances.

It is important that managers' responses reflect individual circumstances and that these are addressed through the appropriate procedures. A record of all stages of procedures adopted under this guidance must be kept.

## **8. The Role of the Manager**

This is a sensitive area of management. Managers need to recognise that individuals may find it difficult to be open about their problem, fearing how this may impact on their relationships with their manager and in some circumstances, people will be

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reluctant to discuss with their manager other issues which trigger use of alcohol or other substance. Input from HR may therefore be beneficial.

It's important that managers: -

- Ensure that all employees are aware of the alcohol and substance misuse guidance and the rights and responsibilities contained therein.
- Create an environment which encourages all staff, wherever they work and in whatever capacity, to seek appropriate help.
- If appropriate, treat alcohol and substance misuse as a health issue and offer confidential counselling services through the Council's Occupational Health Service (employees may also self refer themselves). The content of the counselling sessions will remain confidential between the employee and the counsellor.
- Monitor and progress via the Council's capability procedure.
- Be aware that an issue associated with the misuse of alcohol and/or other substances could be a potential disciplinary matter and establish the facts as per the procedure.

## **9. The Role of Occupational Health Service**

The role of the Occupational Health Service is:

- To assess referred employees under the guidance in strict confidence.
- To advise management and HR in matters relating to the continued care of an employee at work, including cases where an employee requests to seek medical help but prefers to receive diagnosis, care and/or treatment from their own doctor. (It must be stressed that management and HR will only be provided with advice on the employee's fitness for work and will not have access to any clinical details which are always strictly confidential).
- To offer advice on self help groups and other support for individuals.

## **10. Responsibilities of Individual Members of Staff**

The responsibilities of individual members of staff in relation to this guidance are:

- To be familiar with the principles and procedures of the guidance, in particular regarding an employee's own responsibilities towards themselves and towards colleagues in accordance with section 7 of the Health and Safety at Work 1974 as follows: -

"It shall be the duty of every employee while at work:

To take reasonable care for the health and safety of himself/herself and of other persons who may be affected by his/her acts or omissions at work; and as regards any duty or requirement imposed on his/her employer or any other person by or under any of the relevant statutory provisions, to co-operate with him/her so far as is necessary to enable that duty or requirement to be complied with"

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- To bring to the attention of an appropriate manager or HR concerns over the health or performance of colleagues that may be related to misuse of alcohol or other substances.

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