

## SICKNESS ABSENCE AND MONITORING POLICY

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## 1 INTRODUCTION

1.1 The Council's current Sickness Absence Monitoring and Control Procedure was originally agreed by Personnel Sub-Committee on 7th January 1997 and was amended by Corporate Committee on 27 September 2012.

1.2 The Council's Sickness Policy is to enable managers to deal effectively with absences which cause difficulties not where the validity of the absence is in doubt. Manager's approach to an individual's sickness should be based on sympathy, understanding and compassion having regard to both service delivery needs and the individual circumstances. The aim of the policy is to provide managers with a process that requires and enables them to do the following

- monitor all employee absence against the trigger point
- talk to an employee as soon as they reach the trigger point so that they can form an understanding of the case and plan review meetings and occupational health advice according to the circumstances
- be aware of the individual's circumstances in order to provide support and understanding
- implement the case plan

1.3 If the absence does not reduce to the required level the plan will lead to a final meeting being convened where the employee could be dismissed.

## 2 SCOPE OF THE PROCEDURE

2.1 This procedure applies to all permanent Council employees, except those teachers directly employed by the Council and all staff appointed by schools operating under the Local Management of Schools, which have their own procedure and Directors/Assistant Directors or equivalent levels.

2.2 If an employee has had a formal probation review meeting where sickness absences were raised as a concern, this formal probation review meeting should also be treated as a first formal sickness review meeting and the process for holding a sickness review should be followed.

2.3 If employees on temporary contracts of less than 51 weeks service have any absence, this should be discussed with employees as soon as absence arises. If absences continue consideration should be given to the termination of the contract (which ideally should have been discussed with the employee earlier)

## 3 GENERAL PRINCIPLES

1. The manager has a responsibility to treat employees with sympathy and understanding and to provide them with support during their sickness. This will include ensuring that regular contact is maintained with the individual, that adjustments or risk assessments are conducted where necessary and that occupational health advice is sought when appropriate.

2. Managers should be aware when sickness levels increase and when this happens to take steps to utilise resources such as counselling, health MOTs or stop smoking clinics which may help individuals to manage short term sickness before it becomes longer term.
3. The purpose of an Attendance Review meeting is to assess the individual's reasons for sickness, to identify opportunities to make reasonable adjustments to their job if required, to aid their return and to seek improvement in their absence record.
4. Early case planning by managers is key to managing the absence. Details of case planning are given in the Management Guidance. Managers must ensure that account is taken of individual circumstances and where necessary allow reasonable recovery time i.e. following an operation. Management support must be given to the individual to ensure that they are helped to return to work as soon as they are able.
5. It is recommended that Review Meetings following a similar content to an Attendance Review meeting are also conducted where the gap between formal stages is longer than 6 weeks.
6. Where an employee has already been subject to an Attendance Review and subsequently has a further period of absence from work within 12 months which means they are still at or over the 6 day trigger level, the manager would normally move to the First Formal meeting. However, depending on the individual circumstances the manager may decide that this is inappropriate in which case another Attendance Review Meeting must be held.
7. There must be at least one Intermediate Meeting, however, the manager can use his/her discretion and decide to conduct more than one Intermediate meeting where they believe it to be appropriate depending on the circumstances of the case.
8. In cases which managers judge to be particularly serious, it is possible to miss out a stage in the procedure. In these circumstances advice should be sought from Human Resources.
9. The final meeting should take into account any relevant information concerning the employee's absence record; this may include occupational health reports and other relevant medical information available at the time.
10. If the employee is considered by either their GP or Occupational Health as fit to return to work, but is only fit to carry out some of their duties, the manager must be clear about the type of work which the employee can do and then, with HR advice, determine what this means in practice.
11. Employees have the right to be accompanied by a trade union representative or work colleague at the 1<sup>st</sup> Formal and Intermediate Meeting(s) and have the right to be represented at the Final Meeting.
12. Failure to comply with the procedure may result in sick pay being withheld and/or disciplinary action being taken which can result in dismissal following significant /

#### 4 RESPONSIBILITIES OF MANAGERS AND EMPLOYEES

Managers	Employees
<p>Provide a healthy workplace by using well being initiatives; workplace risk assessments or Occupational Health advice where necessary</p> <p>Apply the procedure fairly &amp; consistently and treat employees with sympathy and understanding</p> <p>Respect the employee's right to medical confidentiality. Issues around mental health are sensitive and due to the nature of certain types of illness, eg mental illness, managers should be wary of the effects of their action on the employee. It is particularly important that in addition to adopting a sympathetic approach, managers seek advice from HR or from the Occupational Health Team.</p> <p>Ensure staff are aware of the sickness reporting procedures (see management guidance)</p> <p>Ensure the relevant Accident Reporting procedures are followed if an accident at work occurs.</p> <p>Speak to staff on first day of sickness and advise the employee to maintain regular contact.</p> <p>Ensure the SAP sickness recording and sickness certification procedures are adhered to</p> <p>Implement any reasonable adjustments to the work, the workplace or to hours of work which may enable an employee to attend</p>	<p>Attend work regularly when fit to do so and return to work as soon as possible following any sickness absence</p> <p>Comply with the sickness absence reporting procedure ensuring contact is made with line manager on the first day of sickness and regularly thereafter as requested by the manager.</p> <p>Submit fit notes or other medical certificate at the relevant time in line with the sickness absence procedure</p> <p>Attend any meeting or interview which is arranged by managers as part of the sickness procedure. This includes medical appointments arranged by Occupational Health.</p> <p>Be aware that a delay in refusing to allow his/her GP to be contacted or to release relevant medical information will result in decisions being taken which will be based on the best available information at the time.</p> <p>Failure to comply with the procedure may result in sick pay being withheld and/or disciplinary action being taken which may result in dismissal.</p> <p>If sickness absence occurs during planned annual leave, proof of the original travel details must be given to the manager.</p> <p>Arrange routine visits to the doctor or dentist outside work time. Time off in work time will only be agreed if an appointment card is produced. Time off to accompany a child./parent/relative or friend to a medical appointment must be booked in advance as annual leave.</p>

work regularly	
If the employee cannot carry out the full duties of the job, to scope the work which can be done and to utilise any opportunities which may exist in the workplace.	

## 5 ABSENCE RELATED TO PREGNANCY OR DISABILITY

5.1 The Equality Act 2011 sets out nine “protected characteristics” including disability, pregnancy & maternity and gender reassignment, and when initiating either informal or formal management action relating to sickness absence, care must be taken how sickness relating to these characteristics are treated. It may sometimes be necessary to treat them differently to other forms of sickness absence to avoid indirect or direct discrimination. Managers must take into account the particular nature of the employee’s illness and ensure that support is given with due regard to the individual’s circumstances.

### **Absence related to pregnancy**

5.2 Pregnancy related absences are not included as part of sickness monitoring and absence related directly to pregnancy (including miscarriage) must be recorded on SAP as PRS (pregnancy related sickness) and not as general sickness absence. It is good management practice to hold an informal Return to Work meeting with a pregnant woman on her return from pregnancy related sickness absence. The meeting should not be recorded as a formal meeting but instead, used to check whether any additional support can be given or whether adjustments are required. Sickness during pregnancy which is not directly related to pregnancy must be recorded as general sickness absence in the usual way and the formal stages of the Policy may be used if necessary.

5.2.2 Pregnant women are entitled to paid time off to attend ante-natal appointments and this should be recorded on SAP as A/N.

5.2.3 There is no statutory entitlement to paid time off for IVF or other fertility treatment, but staff will be granted annual leave to cover these appointments. Any side effects which are experienced as a result of the treatment should be treated as ordinary sickness absence and recorded as such.

5.2.4 Managers must carry out a work place risk assessment as soon as possible after being informed that an employee is pregnant. Please contact the Corporate Health & Safety Team for further information.

### **5.3 Absence related to disability**

5.3.1 The Equality Act 2010 defines disability as “a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities.” Anyone with HIV, cancer or multiple sclerosis is automatically treated as disabled under the Act from the point of diagnosis, and in some circumstances people with sight impairment are also covered automatically.

5.3.2 Employers have a legal duty to make reasonable adjustments for disabled employees (Equality Act 2010) and to take positive steps to ensure that disabled people are not discriminated against in accessing employment (please refer to section 3.4 of the management guidance for more information).

5.3.3 Absence related to a person's disability should be recorded on SAP as DRS (disability related sickness) and not as general sickness absence. Disability is one of the "protected characteristics" introduced by the Equality Act 2010, and as such, employees with a disability are protected against discrimination which may arise as result of their disability.

5.3.4 Disability related absences should be taken in account when looking at an individual's absence record as part of absence monitoring. Some or all of disability related absences should be disregarded if doing so would be a reasonable adjustment for the employee, i.e. allowing someone regularly attending a clinic or hospital paid time to do so would be considered as a reasonable adjustment. Managers should take note of the section relating to Reasonable Adjustments detailed in the Sickness Absence & Monitoring Policy Management Guidelines and seek advice from HR when considering a reasonable adjustment. However, where the levels of absence become unacceptable managers will still initiate formal action in accordance with this procedure and advice is available from HR regarding what may be considered as unacceptable levels.

## 6. INITIAL MEASURES FOR MONITORING

6.1 On the return to work from any period of sickness absence a Return to Work form must be completed by the employee and the employee's manager.

6.2 This then provides the basis for an initial review with the employee concerned. It is important that a manager raise any concerns about the employee's absence levels at an early stage so that appropriate measures can be taken.

## 7. ATTENDANCE REVIEW

7.1 The Manager must review an employee's attendance where:

- 6 working days (or the equivalent in hours, i.e. 43.2 hrs) absence have accrued in a rolling 12 month period. This is pro rata for part time employees
- If there is concern about the attendance record e.g. absences on Mondays/Fridays, or immediately before/ after holidays etc.

7.2 This will take the form of an attendance review meeting on the individual's return to work or in the case of an employee being continuously absent then a meeting needs to be arranged for the employee to come into the workplace or alternatively, for the manager to conduct the meeting by telephone or to make arrangements to visit the employee at home. The key aspect of this stage is that a dialogue must happen as soon as a trigger is reached.

7.3 A copy of the Review Form to be used can be found in the Management Guidelines or on the HR Forms page of Harinet.

7.4 This meeting is part of the management process to effectively manage sickness absence and as such should only be held between the line manager and the individual concerned. An employee's refusal to attend would be failure to obey a reasonable management instruction and therefore could be liable to disciplinary action.

7.5 The purpose of the attendance review is to:

- Determine whether the employee is fit or is likely to be fit to return to work.
- Identify the likelihood of further absence.
- Assess the need for a referral to Occupational Health Unit.
- Enable problems affecting the individual's health and performance to be identified and where possible resolved.
- Assess the effects of the absence on the service.
- Ensure the employee understands the sickness absence procedure.
- Decide what additional steps are necessary dependent on the circumstances.

7.6 The employee must be told that his/her attendance record will continue to be monitored and if there is no substantial improvement, formal action will be initiated. If the manager considers that absences are likely to continue, h/she must complete a case plan at that point. Further details of Case Planning can be found in the Management Guidelines. A note of the meeting should be copied to the individual.

## **8 1<sup>ST</sup> FORMAL MEETING**

8.1 Where the individual's attendance record has not sufficiently improved following on from the Attendance Review, then the manager, in consultation with HR, must set up a formal meeting, giving the employee 5 working days' notice.

8.2 The Chair must write to the employee outlining the purpose of the meeting and give a minimum of five working days' notice. The letter should also give information on date, time and place of meeting, and their right to be accompanied. The letter must explain that the matter may be dealt with in their absence if they fail to attend without a satisfactory explanation. If they are unable to attend through illness, they can arrange representation at the meeting and can provide written submissions or the employee can suggest an alternative time and date, which will be agreed, so long as it is reasonable and is ideally not more than ten working days after the original date. (Note – it is acknowledged that on occasions because of diary commitments ten working days is not practicable but as a general principle this target should be achievable on most occasions).

8.3 Reasons for the absence should be explored and the following factors discussed:

1. The current situation of the employee, (i.e. finding out how they are feeling at the time of the meeting, what has happened since the last meeting?) bearing in mind the following:
  - (i) In the light of medical advice, will the employee be able to resume or maintain normal activities in the foreseeable future?  
If not:-
  - (ii) Identify which aspects of the job cannot be performed.
  - (iii) Is the medical condition temporary in nature or long term?
2. Any work related issues

3. Advice received from Occupational Health or the need for a referral to Occupational Health
4. The timescale for an expected return to work
5. The impact on service delivery and the effect on other members of staff
6. The risk to the individual's employment should absence levels continue to cause problems for organizational effectiveness.

**(a) If the medical condition is temporary -**

- Is some reorganisation or redesign of the job required/possible?
- Would a phased return or reduction in hours / workload be of benefit?
- Is there suitable temporary alternative employment available within the team /service?

**(b) If the medical condition is long term -**

- Is some reorganisation or redesign of the job required/possible?
- Should any other reasonable adjustment be considered? – see Management Guidance
- If advice is received from Occupational Health that redeployment should be explored and if the current job cannot be modified and if there is no suitable vacancy within the area of work in which the skills of the employee may be matched then the individual should be referred to HR for inclusion on the redeployment list. The Management Guidelines gives details of the process.
- Advice should be sought from the Occupational Health Unit as to whether the redeployee is medically fit to undertake the alternative employment.

**(c) If the medical condition is permanent –**

- should ill health retirement be considered?

If the absence continues, it is recommended that a Review Meeting, following a similar content to an Attendance Review meeting, is also conducted where the gap between formal stages is longer than 6 weeks.

8.4 Notes of the meeting should be taken and the employee must be sent a letter from the manager confirming the outcome of the meeting (template letters are in the management guidance notes). The manager must ensure that a copy of the letter is also sent to the person who accompanied the individual to the meeting.

## **9. INTERMEDIATE MEETING(S)**

9.1 If within a reasonable period there is little or no improvement in the employee's absence then an intermediate meeting will be convened. S/he will be referred to Occupational Health (if this has not previously been done) so that a medical report can be considered at the meeting.

9.2 The Chair must write to the employee outlining the purpose of the meeting and give a minimum of five working days' notice. The letter should also give information on date, time and place of meeting, and their right to be accompanied. The letter must explain that the matter may be dealt with in their absence if they fail to attend without a satisfactory explanation. If they are unable to attend through illness, they can arrange representation at the meeting and can provide written submissions or the employee can suggest an alternative time and date, which will be agreed, so long as it is reasonable and is ideally not more than ten working days after the original date. (Note – it is acknowledged that on



occasions because of diary commitments ten working days is not practicable but as a general principle this target should be achievable on most occasions).

9.3 The same steps as outlined in Section 8.3 will be taken.

9.4 If a referral to Occupational Health is required, managers must remind employees that they are expected to attend the appointment, if they do not wish to attend they should notify OHU in good time so as to avoid costs being incurred. Management may decide to proceed with the Intermediate Meeting without the benefit of medical advice if the employee is unable or unwilling to attend their occupational health appointment without good reason.

9.5 The manager should explain that the stage has been reached where it will be necessary to refer the employee to the Director (or delegated officer) for a decision about the employee's continued employment should there be little or no improvement in the employee's absence levels unless:

- a further period for review is considered appropriate (There will normally be one Intermediate Meeting, however, the manager can use his/her discretion and decide to conduct more than one Intermediate meeting where they believe it to be appropriate depending on the circumstances of the case) OR
- redeployment is an option OR
- Ill Health retirement is being pursued

9.6 Notes of the meeting should be taken and the employee must be sent a letter from the manager confirming the outcome of the meeting (template letters are in the management guidance notes). The manager must ensure that a copy of the letter is also sent to the trade union representative who accompanied the individual to the meeting.

## 10. FINAL MEETING

10.1 A Final meeting should only be held where dismissal is a serious consideration. A report must be prepared by the line manager which includes:

- The level and effect of the sickness absence(s).
- Action taken, including meeting dates, referrals, any alterations to working conditions etc.
- Factual medical information, and in the case of employees with an underlying medical condition, current OHU advice.

If the absences have been short term and certified by a GP with no apparent underlying medical reason linking them, a referral to Occupational Health would not be required. Similarly, if Occupational Health has previously stated that there is no underlying medical reason it would not be necessary to re-refer prior to holding a final meeting unless there is reason to believe that a underlying condition may have developed since the original referral. HR advice should be sought on whether or not to make a new referral in the case of any doubt.

10.2 The meeting must be chaired by a 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> tier officer or by a manager

nominated by the Director and must be at least a grade higher than the employee. The Chair must write to the employee outlining the purpose of the meeting and give a minimum of 10 working days' notice. The letter should also give information on date, time and place of meeting, the name and designation of the manager who will be hearing the case and their right to be represented. The letter must explain that the matter may be dealt with in their absence if they fail to attend without a satisfactory explanation. If they are unable to attend through illness, they can arrange representation at the meeting and can provide written submissions to the hearing or the employee can suggest an alternative time and date, which will be agree, so long as it is reasonable and is ideally not more than ten working days after the original date. (Note – it is acknowledged that on occasions because of diary commitments ten working days is not practicable but as a general principle this target should be achievable on most occasions).

10.3 The manager hearing the case shall decide on the appropriate course of action having regard to the considerations set out below:

- The nature of the illness. The likelihood of it continuing/recurring or some other illness occurring.
- The length of various absences (if appropriate) and the period of good health in between
- The impact on service delivery and resources of the team
- The extent to which managers have informed the employee that their continued absence may put their job at risk.
- Any special circumstances referred to by the employee.
- Whether the proposed action is reasonable in all the circumstances.
- The consideration given by managers as an alternative to dismissal e.g. reasonable adjustments; reduced hours; referral to the redeployment register for a maximum period of 3 months.

10.4 The manager will usually decide on one of the following courses of action:

- To dismiss the employee with notice or
- To keep the situation under review for a defined period (of up to 12 months) at the end of which a decision will be taken on the appropriate course of action. Should further absences arise within this timeframe a further meeting (which may be a final meeting, depending upon the number and type of absences) can be convened and the case will be assessed as outlined in paragraph 8.3. Current Occupational Health advice should be sought as appropriate.

10.5 Notes of the meeting should be taken and the employee must be sent a letter from the manager confirming the outcome of the meeting (template letters are in the management guidance notes). Where a decision is taken to dismiss, the employee will be informed of her/his right to appeal. The manager must ensure that a copy of the letter is also sent to the trade union representative who represented the individual to the meeting.

## 11 APPEAL

11.1 Appeals against sickness dismissals will be heard by a panel of **3** Members, who will review the case based on the information provided at the appeal review hearing.

11.2 An HR Adviser (and an adviser from the Legal team) will provide advice to the member panel

11.3 The individual is entitled to be represented (or accompanied) to an appeal hearing by either their trade union representative or a work colleague of their choice.

11.4 To lodge an appeal, the Appeal Form (attached at Appendix 1), must be completed in full and sent to the Head of HR within 10 working days of the date of the letter confirming the decision of the Final sickness hearing. An appeal may be lodged outside of this timeframe only if there are exceptional reasons for the delay. The final decision about whether or not to accept the appeal in such circumstances will rest with the Head of HR.

11.5 Failure to supply full reasons for the making the appeal will render the appeal suspended until they are supplied. The Head of HR will make the final decision as to whether the reasons are sufficient.

11.6 Where an appeal is lodged, HR will provide the transcript or notes of the original hearing when confirming receipt of the appeal. Where this is in the form of a transcript the appellant shall be entitled to hear the audio recording in the event of a dispute about accuracy in transcription.

11.7 Appeal hearings will be electronically recorded to ensure an accurate record is captured. The appellant may raise an objection in advance of the hearing date as to why they don't want the hearing recorded. However, the appellant must be aware that a written note of the hearing may not be as accurate as an electronic record.

11.8 Only new evidence which has come to light since the original hearing took place and which may have a material effect on the final outcome may be introduced at the appeal stage. Any such evidence must be provided at the same time as other evidence (ie ten working days in advance of the hearing).

11.9 Both parties will be expected to exchange any documents relating to the case at least ten working days in advance of the appeal. If management are using the same documents as those used at the Final Sickness monitoring they must confirm this to the appellant no later than ten days in advance of the appeal. Where management introduce new evidence at this point the appellant shall be entitled to submit additional evidence no later than five working days in advance of the appeal, such evidence shall be limited to having a direct relationship to the new management evidence.

11.10 Appeal hearings must be arranged within a reasonable period of time and ideally concluded before the employee's last day of service. However, where this is not possible, the hearing should be concluded within a maximum of 3 months from the date of the Final sickness hearing. The date of the appeal should be arranged in consultation with all parties. Flexibility will be expected from an appellant if a proposed date does not at first appear convenient and he/she must be prepared to change their arrangements to try to meet the proposed date. The appellant should be aware that the appeal may go

ahead in their absence should they fail to attend without good reason.

### **Member Level Appeals Process**

11.11 An appeal against a decision to dismiss on sickness/capability grounds will be a review of the case, heard by 3 Members. If one Member is unable to attend the hearing, the appellant has the option on the day of continuing the hearing with a panel of 2 Members or requesting that the hearing be postponed until a panel of three members can be present to hear the case.

11.12 The manager presenting the case (normally the service manager who heard the final hearing) will present first. If this manager is no longer employed, then another manager or the HR Adviser who advised the final hearing panel will present the management case.

11.13 The employee (or his/her representative) will present their case after the management case.

11.14 Witnesses may only be called if there has been new evidence introduced which may have a material effect on the outcome and which has come to light since the final hearing or where the individual concerned was unavailable to attend the original hearing. Any witnesses present may be questioned by the presenting manager, appellant or representative, the panel and advisor(s) to the panel. The order of questioning shall be in line with the normal procedure.

11.15 Questioning of either the presenting manager or the appellant may only be carried out by Members or by the HR adviser to the Member panel.

11.16 Once the management and appellant have presented their case, both sides will present a summary of the key points. The case against the appellant will be summarised first. No new evidence can be introduced in closing statements.

11.17 The presenting parties will then leave the hearing to allow the Member panel, with any adviser or advisers, to deliberate in private. The parties can be recalled to clarify any points of uncertainty.

11.18 Having deliberated, the Appeal panel will generally recall both parties to the room in order to give a decision on the case. It may sometimes be necessary to give a decision on the case at a later date if the deliberations are likely to last a long time.

11.19. The decision will be confirmed in writing, and the letter should usually be dispatched within 3 working days.

## APPENDIX 1

# SICKNESS ABSENCE APPEAL SUBMISSION FORM

Employees who receive a formal sanction of a written warning or above have a right of appeal against this decision. The appeal must be made in writing using this form. The completed form must be returned within 10 working days of the date of the decision letter and must be completed in full, outlining the reasons for the appeal.

<b>Name</b>		<b>Service</b>	
<b>Job Title</b>		<b>Contact Telephone</b>	
<b>Line Manager</b>		<b>Trade Union Rep</b>	

Indicate your reason for making the appeal	
1. That the process followed at the original hearing was incorrect	2. To take into account evidence which came to light after the hearing and which you believe to have a material affect on the outcome of the case
3. That the original hearing failed to take due account of the evidence in reaching a decision to dismiss on sickness/capability grounds	

<p>Please outline your appeal, giving as much detail as you can (including any evidence you have to substantiate your appeal) (please include your name on any supplementary sheet submitted)</p>

**Please note that your appeal will not be lodged until the form is completed in full.**

Signature	Date
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The completed form must be returned to:  
Head of HR, Level 4 Alexandra House, 10 Station Rd, Wood Green, London N22 7TR.