

# Managing Sickness Absence Policy

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## Additional Guidance

- [Guidance on conducting a return to work interview](#)
- [Guidance on making reasonable adjustments and evaluation form](#)
- [Guidance on the menopause and work](#)
- [Guidance on the process to be followed at an appeal hearing](#)

(The additional guidance is not part of the policy but is available to assist those involved in the policy. It can be found on the intranet or by clicking on the links above)

# 1. Objectives and Scope

- 1.1 The Council recognises that there will be occasions when individuals will be prevented from attending work through ill health. By implementing this policy, the Council aims to strike a balance between the pursuit of its operational needs and the genuine need of employees to take time off work because of ill health.
- 1.2 The objective of this policy is to ensure that sickness absence is managed in a timely, effective, fair and consistent manner across the Council. It aims to encourage all employees to maintain good attendance at work, and for managers to provide a supportive work environment.
- 1.3 This policy applies to all those working for the Council, including those on permanent, temporary or part-time contracts, job sharers, and individuals on non-standard terms of employment. The policy does not apply to:
  - employees in their probationary period of service (covered by the Probation Scheme)
  - staff employed by schools who may be covered by separate terms and conditions relating to their employment.
- 1.4 If the Council suspects there to be misconduct then the Council's Disciplinary Policy will apply. For example if:
  - the absence is not genuine or not for the reason provided;
  - the employee is undertaking inappropriate activities while off sick, such as carrying out work for another organisation; or
  - the correct sickness absence notification and evidence procedure has not been followed.
- 1.5 This policy does not form part of employees' terms and conditions of employment and may be subject to change.
- 1.6 The following important principles are encompassed within this policy:
  - it is based on established case law and has been agreed between the Council and the recognised trade unions
  - it will not contradict any current or future national agreement
  - employees will be informed of the Council's policy, in particular through the induction process.
  - employees will be informed of the standards expected of them
  - employees will be given an opportunity to state their case before any decision is reached
  - the informal process will have been exhausted before the formal procedure is initiated
  - an employee may be accompanied by a trade union representative or a work colleague
  - there will be a right of appeal against formal action taken

## 2. Responsibilities

### 2.1 Employees should:

- if they are unable to attend work because of ill health, notify their manager by telephone as soon as reasonably practicable and continue to notify and keep in touch with their manager while unable to attend work;
- attend a return to work interview with their manager each time the employee returns from a period of sickness absence or absence due to treatment related to a disability;
- be open with their manager about the reasons for their absence, to give the manager the opportunity to provide support where possible;
- tell their manager of any extenuating circumstances, for example personal or family problems or an unmanageable workload;
- bear in mind that the Council may seek a medical report, for example from the employee's doctor or the Council's Occupational Health Adviser; and
- cooperate with the Council with regard to the possible implementation of any adjustments to job duties, hours or working conditions, particularly those suggested by a doctor or Occupational Health.

### 2.2 Line managers should take responsibility for managing their employee's attendance and absence, and;

- ensure employees understand who they should notify about sickness absence and when, and maintain a proper record of each employee's sickness absences;
- conduct a return to work interview each time the employee returns from a period of sickness absence or absence due to treatment related to a disability;
- speak to the employee about the absence and the reason for it in a fair and factual way;
- be supportive towards the employee and, where appropriate, seek to identify ways in which to assist the employee to improve his/her attendance in the future, making it clear that continuing frequent absences from work are unacceptable;
- be alert to patterns of absence, for example frequent absences on Fridays or Mondays, before or after rest days for shift workers, or immediately before or after public holidays;
- try to establish any underlying reasons for frequent absences and, where the underlying cause is identified, take steps to help the employee to manage the cause;
- seek medical advice from Occupational Health, if appropriate, to determine whether or not there is any underlying medical cause for the employee's frequent absences;
- be sensitive when absences are caused by personal or family problems;
- check whether or not the employee's absences are in any way work related, for example as a result of workplace stress;

- ensure that confidential records of all absences, including discussions and medical certificates are sent to HR for the employee's personal record file;
- be aware of the potential for discrimination when managing absence, particularly where the employee's ill health is related to pregnancy, disability, the menopause or to a terminal illness (see sections 9 to 12);
- consult with the HR and Occupational Health if unsure about anything or special circumstances arise, for example if it appears that the employee may have a disability and keep in mind the Council's duty to make reasonable adjustments for disabled people when managing absence (see section 10);;
- be alert to signs of mental ill health which may present as physical symptoms; and
- Take responsibility for the wellbeing of their employees.

### 3. Health and Wellbeing

- 3.1 The Council recognises its responsibility for employee wellbeing as detailed in the [Employee wellbeing in the workplace policy](#).
- 3.2 The Council seeks to support and encourage employees to take responsibility for their own health and wellbeing and provides a number of resources to support this.
- 3.3 The Council also recognises that mental wellbeing is a significant cause of absence and acknowledges the need for a clear corporate approach to supporting this. The Council has a number of resources on its [Stress and Well-Being Resources for Individuals](#) intranet pages. Employees should speak to their manager or HR if they do not have access to these pages at work.
- 3.4 Information on a number of health and wellbeing initiatives can be found on the [Health and Wellbeing Pod](#) intranet pages. These pages include a comprehensive list of external links to health organisations, links to fitness apps and health information web sites, information on the cycle to work scheme and a calendar of regular healthy events across the Council such as five-a-side football, fitness classes and running groups.
- 3.5 In addition to health and wellbeing initiatives, the Council encourages a healthy work-life balance and offers various options with regards to flexible working (where possible) to those who request it. Further information is available on the [Work life balance Pod](#)
- 3.6 The Council's Employee Assistance Programme (EAP) provides free, confidential telephone counselling and support and is available 24/7. Freephone 0800 243 458 (minicom 020 8987 6574), email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com). Support is also available online at [www.workplaceoptions.com](http://www.workplaceoptions.com)

## 4. Notification and evidence of sickness

- 4.1 On the first day of sickness absence, the employee must inform his/her manager as soon as reasonably practicable and ideally prior to their start time, that they will not be working because of illness or injury.
- 4.2 The employee should provide a clear reason for the absence and the likely duration. The employee should also be prepared to discuss briefly any consequences of his/her absence, for example if customer appointments need to be cancelled or any essential work needs to be covered. The regulatory of updates after the first day of absence will be subject to agreement between the manager and the employee depending on the reason for the absence and the likely duration.
- 4.3 Notification of sickness absence should ideally be via telephone, rather than text message, email or social media. In exceptional circumstances where the employee is unable to telephone (for example, because of hospitalisation), another person such as a friend or relative can contact the Council on his/her behalf.
- 4.4 If an employee comes to work, but needs to leave during the day because of ill health, they should inform his/her manager before leaving work. If the manager is unavailable, the employee should inform the next most appropriate person within the department.
- 4.5 Sickness absence that begins part way through the day will count as one full day's sickness absence if the employee leaves before completing 50% of his/her working day. Where sickness absence begins after the employee has completed 50% of his/her working day, this should be recorded as half a day's absence.
- 4.6 The first seven calendar days of sickness can be self-certificated. If the employee's sickness lasts for eight calendar days or more, the employee must provide a fit note from his/her doctor as soon as possible. A doctor's fit note may state that the employee:
- is "not fit for work", in which case the employee should remain off work; or
  - "may be fit for work", if the doctor's recommendations are followed (for example, a phased return, amended job duties, altered hours of work, or workplace adaptations).
- 4.7 The manager should take what the employee's doctor has written seriously and it give fair consideration - in consultation with the employee, HR and Occupational Health - as to whether or not any of the changes recommended by the doctor can be accommodated.

## 5. Sick pay

- 5.1 The Council operates a contractual sick pay scheme that is more generous than statutory sick pay (SSP). The amount of sick pay that employees receive will be based on their length of continuous local government service as follows:

During 1 <sup>st</sup> year of service	1 month's full pay and (after completing 4 months' service) 2 months' half pay
During 2 <sup>nd</sup> year of service	2 months' full pay and 2 months' half pay
During 3 <sup>rd</sup> year of service	4 months' full pay and 4 months' half pay
During 4 <sup>th</sup> & 5 <sup>th</sup> years of service	5 months' full pay and 5 months' half pay
After 5 years' service	6 months' full pay and 6 months' half pay

- 5.2 The Council reserves the right to withhold or suspend sick pay under its contractual sick pay scheme at its discretion. Circumstances in which contractual sick pay may be withheld include where:

- the employee has failed to comply with the Council's sickness absence notification and evidence requirements;
- the employee refuses to attend an Occupational Health appointment at the reasonable request of the Council based on advice from an HR professional;
- the employee's incapacity has been caused by any other occupation they have;
- the employee makes or produces any misleading or untrue statement or document concerning his/her fitness to work;

- 5.3 The employee will normally be entitled to receive SSP when contractual sick pay is withheld or suspended, although the Council can withhold or suspend SSP if it is not satisfied that the employee is ill, and no evidence of sickness is provided. Employees will be given written notice if their SSP or contractual sick pay is being withheld or suspended. In such cases the [Disciplinary Policy](#) may also need to be followed.

- 5.4 Sick pay under the Council's scheme is subject to the usual deductions for PAYE, national insurance, pension contributions, etc.

## 6. Sickness absence and annual leave

- 6.1 Where an employee falls sick or is injured while on holiday, the Council will allow the employee to transfer to sick leave and take replacement holiday at a later time. This policy is subject to the following strict conditions:

- The total period of ill health must be fully certificated by a qualified medical practitioner. The cost will be borne by the Council
- The employee must contact their line manager (by telephone if possible) as soon as they know that there will be a period of sickness during a holiday.
- The employee must submit a written request no later than ten days after returning to work setting out how much of the holiday period was affected by sickness and the amount of leave that the employee wishes to take at another time.
- Where the employee is overseas when they fall ill or are injured, evidence must still be produced that the employee was ill by way of a medical certificate.

6.2 Where the employee fulfils all of the above conditions, the Council will grant the employee the same number of days' replacement annual leave as the number of leave days lost due to sickness or injury.

6.3 An employee who is absent on sick leave will continue to accrue his/her contractual holiday entitlement and will be given the opportunity to take this at a later date, including in the subsequent leave year, if they do not take their contractual leave entitlement due to being on sick leave. In such cases the amount of annual leave that can be carried forward to the next leave year will not be capped at the number of hours equivalent to the employee's one working week, i.e. 37 hours for full-time staff.

6.4 An employee on sick leave may apply to take his/her holiday entitlement while on sick leave. The holiday dates must be approved in accordance with the procedure set out in the Council's Annual Leave Policy.

## **7. Medical appointments**

7.1 Employees should wherever possible try to arrange medical appointments in their own time (e.g. outside flexi time core hours of 10am to 12pm and 2pm to 4pm). If this is not possible, employees should try to make appointments at times that will cause the minimum amount of absence from work or inconvenience to the Council. However, it is recognised that where hospital or treatment appointments are needed this might not be possible.

7.2 Provided that the employee gives his/her line manager reasonable notice of the date and time of an appointment, time off with pay will normally be granted.

7.3 Employees must obtain approval from their line manager in advance of any appointment wherever possible. The line manager may also, at his/her discretion, ask the employee to produce confirmation of the appointment.

7.4 Employees who are pregnant have the statutory right not to be unreasonably refused paid time off work for antenatal appointments where the employee's attendance has been recommended by a registered medical practitioner, midwife or nurse. Paid time off in such circumstances will automatically be granted, although employees should endeavour to arrange appointments outside working hours. Nevertheless, the employee should give reasonable notice of the date and time of the appointment to his/her line manager where possible and the line manager will still have the right to

request to see the confirmation of the employee's second appointment and any subsequent appointments. See section 9 for more detail.

- 7.5 A prospective father, or partner of a pregnant woman, has the statutory right to take unpaid time off to attend up to two antenatal appointments.

## 8. Return to Work Interview

- 8.1 On the first day back at work after any period of sickness absence, the employee's line manager will arrange to meet informally with the employee. Guidance on conducting a return to work interview is available on the intranet or by clicking [here](#).

- 8.2 If this is not possible on the employee's first day back (for example, for operational reasons or because the manager is not available), the informal meeting should take place as soon as reasonably practicable.

- 8.3 The return to work interview should take place in a private place, and all discussions between the employee and the manager should be private and confidential.

- 8.4 The line manager should:

- welcome the employee back to work;
- explain to the employee that the purpose of return to work interview is to manage and monitor employees' absence and attendance to identify any problem areas and offer support where appropriate;
- ask the employee to update iTrent with their last day of sickness absence for the line manager to approve (or the line manager can do this);
- ask the employee about the reasons for his/her absence, ensuring that the question is asked in a supportive way without any suggestion that the employee is "to blame" for the absence;
- ask the employee whether or not they have consulted a doctor or attended hospital;
- if the employee's sickness lasts for eight calendar days or more, ensure that the employee has provided a fit note from their doctor, and this has been passed on to HR; and
- inform the employee if they have hit a trigger point, and the consequences of having done so (see section 15 below).

- 8.5 The line manager should complete the return to work interview section of the [sickness report form](#) and ask the employee to sign and date it also. The completed form should be uploaded by the line manager onto the employee's iTrent record. It is very important that the manager completes this form each time the employee returns to work so that the Council can keep track of the employee's pattern of absence.

- 8.6 There may be occasions when the underlying reasons for the employee's absence are not easily classifiable. For example, the employee may have more than one health condition, or the employee may have been feeling unwell because of a bereavement. If there is any doubt as to the reasons for the employee's absence, the

manager should consult HR to determine the most appropriate reason for the absence record.

## 9. Pregnancy-related absences

- 9.1 Pregnant employees who are off work because of pregnancy-related ill health must abide by the Council's sickness absence reporting procedure. For example, a pregnant employee is subject to the usual notification and evidence requirements, and will be asked to attend a return to work interview when returning to work.
- 9.2 However, any sickness absence by a pregnant employee for a pregnancy-related reason should not be included when checking to see if the need for formal action under this policy has been triggered.
- 9.3 If the manager is in any doubt as to whether or not a pregnant employee's absence is related to her pregnancy, the manager should contact HR or Occupational Health for clarification.

## 10. Disability-related absence

- 10.1 Where an employee gives as the reason for absence an underlying health issue that could amount to a disability under the Equality Act 2010, the manager must seek advice from HR, who may advise that referral to Occupational Health is appropriate. Disability is defined as a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on a person's ability to do normal daily activities. 'Substantial' is more than minor or trivial, e.g. it takes much longer than it usually would to complete a daily task like getting dressed. 'Long-term' means 12 months or more.
- 10.2 Managers should remember that the Council is under a duty to make reasonable adjustments for disabled employees. Access to time off for medical attention (treatment, assessments and tests, respite, recuperation etc in connection with support and / or treatment of an illness or condition) can be regarded as a reasonable adjustment under the Equality Act. Such time off will not be included for the purposes of assessing performance, promotion, attendance, or selection for redundancy. It will not count as sick leave, but as paid leave of absence. Where the absence is wholly or partly for a disability-related reason, the trigger points referred to in this policy may need to be modified to take proper account of the employee's disability.
- 10.3 Guidance on making reasonable adjustments and an evaluation form for recording adjustments made and considered is available on the intranet or by clicking [here](#). Managers should contact HR for advice and clarification regarding disability-related conditions.

## 11. Absence related to the menopause

- 11.1 The changing age of the UK's workforce means that between 75% and 80% of menopausal women are in work. 25% women experience symptoms that are serious

and have a significant impact on their lives, such as hot flushes, night sweats, insomnia, anxiety and poor concentration which can also impact on work. Yet research shows that the majority of women are unwilling to discuss menopause-related health problems with their line manager, nor ask for the support or adjustments that they may need.

- 11.2 The Council has produced guidance for use by employees and managers to help ensure that women receive the right support to manage menopausal symptoms at work. The guidance is available on the intranet or by clicking [here](#). Managers must ensure that menopausal-related sickness absence is treated and recorded as an ongoing health issue rather than as repeated short-term absence (see section 16).

## 12. Absence related to a terminal illness

- 12.1 A terminal illness is a disease that cannot be cured or adequately treated and there is a reasonable expectation that the person will die within a relatively short period of time. Usually, but not always, they are progressive diseases such as cancer or advanced heart disease.
- 12.2 Sometimes the nature of the illness is such that the person is unlikely to be able to work again. In other cases, a person may decide that they do not want to work anymore and would rather spend their remaining time with their family and friends, getting their affairs in order, or simply doing what they want. However, a lot of workers with a terminal diagnosis decide that they want to continue working as long as they can, either because they need the financial security or because they find that their work can be a helpful distraction from their illness.
- 12.3 The Council will support employees who are diagnosed with a terminal illness and provide them with the security of work, peace of mind and the right to choose the best course of action for themselves and their families which helps them through this challenging period with dignity and without undue financial loss. The Council's Employee Assistance Programme (EAP) can provide support to any person with a terminal illness, including access to counselling and financial advice.

## 13. Occupational Health

- 13.1 Occupational Health (OH) is a branch of medicine which specialises in the relationship between work and health. It is an advisory service, and provides advice to both employees and employer. Its main objectives are:
- To identify and help prevent illness caused by work
  - To advise on the fitness of an employee to do their job
  - To improve and maintain the health of the workforce to the mutual benefit of both employee and employer
- 13.2 The OH Adviser is an independent, objective specialist assessing and advising on what appears best for both employee and employer in relation to an individual's health

and their work. They will sometimes seek a report from the employee's GP before offering advice.

13.3 It may be appropriate to seek OH advice in the following circumstances:

- Where an employee advises their manager that they have been diagnosed with a condition or disability that may impact on their attendance or performance at work
- If an individual has been or is likely to be unable to work for a period of four weeks or more and there is a need to understand from a medical perspective the likely duration and prognosis, and if any adjustment would facilitate a return to work.
- If an individual has had frequent short term periods off work and agrees at an Attendance Review Meeting with the manager to a referral to OH. The purpose of the referral would be to understand if there are potentially any underlying medical conditions which could affect attendance.
- If an individual produces a Fit Note for a return to work with adjustments recommended by their GP and the manager needs advice and guidance on accommodating or making those adjustments.
- In cases of long term ill-health OH can advise on the appropriateness of medical retirement.

13.4 Ultimately it is a matter for the responsible manager, with support from HR, to decide how the Council responds to OH advice and whether any advice is implemented, particularly in relation to determining job adjustments.

13.5 Where an individual refuses to attend a medical assessment, or refuses to give consent for the Council to receive a summarised report of the medical assessment, a decision will be made on the basis of the information available.

## 14. Formal sickness absence

14.1 Many of the mechanisms for managing sickness absence are common to both short and long term sickness. Some actions like ill-health retirement apply only to long term sickness absence, as outlined in section 22.

14.2 Almost all individuals will be absent at some point in their employment for short periods due to colds, seasonal flu, viruses, etc. These periods should be recorded in the normal way (see section 4) but will warrant no other action.

14.3 Managers are responsible for recognising however, when repeated short bouts of absence are impacting on service provision and they must address the potential underlying issues in a timely manner. This should be managed in a systematic and professional way escalating to each stage where appropriate. To facilitate this, managers will need to be pro-active and attentive to the reasons for absence and ensure adequate Return to Work Interviews are held each time the employee returns to work (see section 8).

## 15. Triggers

- 15.1 The following triggers should prompt the manager to examine an employee's absence record and consider if an Attendance Review Meeting should be held:
- Ten or more days absence in the last 12 months
  - Three or more occasions of absence in the last three months
  - Other patterns e.g. on Fridays/Mondays or before or after bank holidays or regularly after rest days for those who work shifts.
- 15.2 Managers should give full consideration to each individual's circumstances and the nature of their absences. For example, managers may modify these triggers having reviewed an individual's personal circumstances related to their disability (see section 10).
- 15.3 These triggers should be pro rata for part time staff. For example, if someone works 2 days a week, the trigger would be 4 days which equates to two working weeks which is comparable to someone who works 5 days and the trigger is 10 days.

## 16. Attendance Review Meetings

- 16.1 Attendance Review Meetings are formal meetings with the line manager and the employee to discuss absence. They are common to both managing short and long term absences. During long-term sickness absence (including absence related to a disability or a chronic illness) an Attendance Review Meeting should be arranged every four to six weeks, keeping particular medical/personal needs in mind.
- 16.2 An Attendance Review Meeting should be held where a pattern of short term absence has become a cause for concern or if there has been no improvement since the last such meeting. It is also the place to formally consider reasonable adjustments, medical reports or other matters which directly or indirectly impact the attendance of an employee.
- 16.3 An invite to an Attendance Review Meeting must be in writing giving a minimum of five working days' notice, with the letter setting out the date, time and location of the meeting and it must state that the employee has the right to be accompanied by a Trade Union representative or workplace colleague. It is the responsibility of individual employees to arrange representation and if this cannot be arranged within the timescales set out above, and there are no extraordinary or mitigating circumstances, then the line manager should proceed with the scheduled meeting. Reasonable adjustments may be needed for a worker with a disability (and possibly for their companion if they are disabled). For example the provision of a support worker or advocate with knowledge of the disability and its effect, in addition to the right to be accompanied by a fellow worker or a trade union representative. The employee must tell the manager whether they will be accompanied at least three working days before the meeting.
- 16.4 The employee and their companion should make every effort to attend the meeting. Where the employee is unable to attend and provides a good reason for this, the

hearing will be rescheduled to a later date. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, it will take place in the employee's absence. The employee's fellow worker or trade union official may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

16.5 Where the chosen companion is unavailable on the day scheduled for the hearing, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date. If an alternative date is proposed by the employee, it will not be unreasonably refused.

16.6 The Attendance Review Meeting will always be held somewhere private and enough time should be scheduled to discuss the issues at hand. The manager will be advised by an HR professional.

16.7 As appropriate during the Attendance Review Meeting the line manager will:

- explore reasons for absence or insufficient improvement in attendance
- identify any work related or personal issues that the employee may have which are impacting on their attendance
- explain the impact of absence on service delivery and emphasise the importance of good attendance
- review issues discussed at previous Attendance Review Meetings, if appropriate
- review the medical advice
- establish if the reason for absence falls within the provisions of the Equality Act 2010 and consider recommendations for reasonable adjustments or support if relevant
- review support/reasonable adjustments already provided
- identify the improvement in attendance needed
- Warn of possible consequences if there is no improvement in attendance (this would not be appropriate if absences are related to pregnancy or disability or to a terminal illness – see sections 9, 10 and 12)

16.8 The following are possible outcomes of an Attendance Review Meeting:

- set, extend or finalise a period of monitoring
- identify the improvement needed
- seek further medical advice in the light of the discussion
- establish if the reasons for absence fall within the provisions of the Equality Act 2010 and make recommendations for adjustments or support if any
- referral to Occupational Health to investigate current medical condition further
- if attendance has not improved since monitoring or a previous Attendance Review Meeting, issue a first written warning or final written warning (see section 17)
- take no further action

- 16.9 The manager will write to the employee within three working days of the meeting, confirming the points discussed and actions identified. The line manager must ensure that any actions identified are implemented as soon as possible and relevant persons/departments are notified of any resulting actions/modifications and adjustments i.e. to triggers, core working hours etc.

*N.B: additional meetings (which must be documented) can be held at any stage with the employee, outside of the formal Attendance Review Meeting, to discuss support mechanisms etc.*

## **17. Attendance Warnings**

- 17.1 An attendance warning is a formal, written, cautionary notification given following an Attendance Review Meeting to an employee on the basis of a sustained period of unsatisfactory attendance. There are two levels of warnings; a first written warning and a final written warning. A final written warning is given where there has been no satisfactory improvement after a first written warning is issued.
- 17.2 Attendance warnings will not be issued in the case of long term sickness or pregnancy related absence. In the case of disability, attendance warnings will only be issued where the level of absence cannot be sustained, after first carefully considering reasonable adjustments (including allowing a higher absence rate where absence is related to the disability).
- 17.3 A first written warning will usually remain live for six months. A final written warning will usually remain live for 12 months. It will be confirmed in writing within three working days of the Attendance Review Meeting and will confirm the employee's right to appeal (see section 19). The letter will also confirm that if satisfactory attendance is not achieved and sustained, then a further Attendance Monitoring Review may need to be held and the possible outcome of this (i.e. issue of a final written warning or dismissal).

## **18. Attendance Management Hearing**

- 18.1 An Attendance Management Hearing can take place in response to both short term and long term sickness absence or absence related to a long term condition.
- 18.2 In short term sickness it takes place where there has been no improvement in an employee's attendance in the subsequent 12 month period after a final written warning has been issued.
- 18.3 An invite to an Attendance Management Hearing must be in writing giving a minimum of five working days' notice, setting out the date, time and location of the hearing and the reasons for holding it. It must also confirm that the employee has the right to be accompanied by a Trade Union representative or workplace colleague. The employee must tell the manager chairing the meeting whether they will be accompanied at least three working days before the meeting. Additionally, the written notification should advise the employee that the hearing may result in a decision to

dismiss them with notice. The employee will also be sent copies of any documentation that will be relied upon at the hearing with the written notification.

- 18.4 The employee and their companion should make every effort to attend the hearing. Where the employee is unable to attend and provides a good reason for this, the hearing will be adjourned to a later date. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, it will take place in the employee's absence. The employee's fellow worker or trade union official may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.
- 18.5 Where the chosen companion is unavailable on the day scheduled for the hearing, it will be rescheduled, provided that the employee proposes an alternative time within five working days of the scheduled date. If an alternative date is proposed by the employee, it will not be unreasonably refused.
- 18.6 The Attendance Management Hearing will always be held somewhere private and enough time should be scheduled to discuss the issues at hand.
- 18.7 The hearing will be chaired by an appropriate manager from the employee's service who has the authority to dismiss (see paragraph 4.2 of the Disciplinary Policy for further details). The manager chairing the meeting will be advised by an HR professional and a note taker will also be present.
- 18.8 The management case will be presented to the manager chairing the hearing together with all documents relevant to the employee's health and attendance. Any representation made by the employee or the employee's representative, or any written submission made in the employee's absence will be given due consideration before any decision is taken.
- 18.9 The hearing manager will consider:
- the employee's overall absence record
  - the impact of the level of absence on the Council
  - representations from the employee
  - whether the reason for any of the absence(s) falls within the provisions of the Equality Act 2010
  - the support/reasonable adjustments provided
  - the management of the case
  - the medical advice received, ensuring that up to date medical advice is available
  - any further action that can be taken by the employee or the manager
  - options for redeployment on medical grounds as an alternative to dismissal (long term absences only)
  - whether ill health retirement has been considered (long term absences only)
- 18.10 Possible outcomes of an Attendance Management Hearing include:

- adjournment while further medical advice or evidence is sought
- consideration of further reasonable adjustments
- consideration of alternative employment
- dismissal with notice or pay in lieu of notice
- ill health retirement (see section 22)

18.11 The outcome of the Attendance Management Hearing will be confirmed in writing within three working days of the hearing. Where a decision to dismiss is made, the dismissal will be with appropriate contractual notice. The employee will have a right to appeal against a decision to dismiss them.

## 19. Appeal

- 19.1 An employee who is given a warning or is dismissed under this policy has the right of appeal. The appeal should be sent in writing to the manager who made the original decision and set out the grounds on which the employee believes that the decision was flawed or unfair. The appeal must be made within five working days of receiving written confirmation of the written warning or dismissal.
- 19.2 The appeal will be heard by a senior manager who has not been involved in the decision to impose a warning on the employee, in line with the authority to take disciplinary action, as detailed in paragraph 4.2 of the Disciplinary Policy. If the appeal is against dismissal, the appeal will be heard by a panel chaired by a senior manager who has not been involved in the decision to impose dismissal on the employee, together with the Chair of Personnel Committee and one other member of Personnel Committee or their substitute(s). The hearing manager/panel will be advised by an HR professional and a note taker will also be present.
- 19.3 Appeal hearings will normally take place within 14 days of receipt of the employee's written notice of appeal. The employee will be entitled to be accompanied by a fellow employee or a trade union official. A guidance note for the process to be followed at the appeal hearing is available on the intranet or by clicking [here](#).
- 19.4 The appeal manager/panel will consider any representations made by the employee and the employee's fellow employee or trade union official. They must also consider representations made by the manager who conducted the final Attendance Management Hearing and imposed the written warning/dismissal.
- 19.5 At the hearing, the decision made at the Attendance Management Hearing will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.
- 19.6 Upon completion of the appeal, the appeal manager/panel will convey their decision to the employee. The decision will be confirmed in writing within three working days.
- 19.7 The outcome of the appeal is final. There is no further right of appeal.

## 20. Managing long term sickness

- 20.1 Absence is considered long term where an employee is absent for 20 consecutive working days or more (or the equivalent for part-time staff). Where an employee indicates their absence will be long-term, Occupational Health advice should be obtained as soon as is practical to gain an indication of the type of illness/potential timeframes involved in recovery, the support required and adjustments needed.
- 20.2 Managers should be proactive in maintaining contact, providing support and assessing the needs of employees to facilitate a successful return to work. Managers are responsible for keeping in contact with an employee who is absent long term via regular Attendance Review Meetings (see section 16). Employees also have a responsibility to facilitate contact including participating in Attendance Review Meetings and keeping their manager informed of their condition.
- 20.3 Where an employee is returning from a period of long term sickness, Occupational Health can advise on any adjustments or working patterns that should be implemented. Wherever possible the Council will try to accommodate a phased return to work or a return on 'light duties' but this may need to be in another team depending on the requirements of the service.
- 20.4 Where adjustments are identified to accommodate the needs of a disabled employee returning from long term sickness absence, a monitoring period should be established to ensure timely implementation and assessment of adjustments.
- 20.5 Where long term sickness is continuous, despite the implementation of support or adjustments, and medical reports indicate that it is unlikely the employee can return to their original role, consideration will be given to redeployment to an alternative role where possible (see section 21).
- 20.6 Where long term sickness absence continues and there is no prospect of a return to work within a reasonable timeframe, consideration will be given to escalation to an Attendance Management Hearing which may result in the employee's dismissal (see section 18). Advice from an HR professional must be sought before such action is taken. The hearing will need to review whether all reasonable adjustments have been considered and whether an alternative role has been found/cannot be found/is not considered suitable.
- 20.7 If long term absence is the result of a terminal illness then the employee must be given the right to choose the best course of action for themselves and their families which helps them through this challenging period with dignity and without undue financial loss (see Section 12). Advice from HR and Occupational Health must be sought in such situations.

## 21. Redeployment on medical grounds

- 21.1 Finding alternative employment will only be considered where it is necessary for medical reasons, in instances of long term sickness and disability related absence, and recommended by Occupational Health. The initial search for an alternative role

should be explored within the service and/or directorate prior to considering a move across the Council. If an alternative role is found then regular Attendance Review Meetings (see section 16) must take place, at least initially, to review the role, any adjustments made and any other matters which may impact on the attendance of the employee.

- 21.2 Individuals must be aware that there may be occasions where alternative roles cannot be sourced or would not be suitable. In those instances, where relevant, ill health retirement will be considered or ultimately dismissal with notice.

## 22. Ill Health Retirement

- 22.1 Retirement on the grounds of ill health can only be considered after all other options have been exhausted, and where an independent registered medical practitioner (IRMP), qualified in Occupational Health medicine, has determined that an employee meets the criteria for ill health retirement, in accordance with the Local Government Pension Scheme (LGPS) Regulations\*

- 22.2 LGPS Regulations require the following criteria have to be satisfied before an ill health retirement can take place:

- At the date of termination the member must be under their Normal Pension Age in the 2014 scheme.
- At the date of termination the member must have met two years' qualifying service in the LGPS.
- The member must, as a result of ill health or infirmity of mind or body, be permanently incapable of discharging efficiently the duties of the employment the member was engaged in and;
- The member, as a result of ill health or infirmity of mind or body, must not be immediately capable of undertaking any gainful employment. (Gainful employment is defined as paid employment for not less than 30 hours in each week for a period of not less than 12 months).

\*Other pension's schemes including the Teachers' Pension Scheme will have broadly similar requirements.

- 22.3 Where ill health retirement is an option because an employee is deemed to be permanently incapable of doing their job, one of three tiers of benefit can be awarded. Each tier looks at the employee's capacity to carry out gainful employment in the future.

- 22.4 The different levels of benefit are:

**Tier 1** - if an employee is unlikely to be capable of gainful employment before their Normal Pension Age.

**Tier 2** - if an employee is unlikely to be capable of gainful employment within three years of leaving, but is likely to be capable of undertaking such employment before their Normal Pension Age.

**Tier 3** - if an employee is likely to be capable of gainful employment within three years of leaving, or before their Normal Pension Age if earlier.

(Gainful employment means paid employment for not less than 30 hours in each week for a period of not less than 12 months).

- 22.5 An IRMP, who has had no previous dealings with the case, will be engaged by the Occupational Health provider to carry out an ill health retirement assessment. This will be organised through HR.
- 22.6 The employer, after obtaining a certificate from an IRMP, will need to make a decision whether the employee's employment should be terminated on the grounds of ill health or infirmity of mind or body and in receipt of early payment of a retirement pension.

## **23. Data protection and retention of employee records**

- 23.1 The Council processes personal data collected during informal and the formal Managing Sickness Absence Policy in accordance with its data protection policy. Such data is held securely and accessed by, and disclosed to, individuals only for the purpose of the Managing Sickness Absence Policy. It will be held on an individual's personal record file which is retained for seven years after their data of leaving the Council. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Council's Disciplinary Policy.

# Managing Short Term Sickness Absence

