

## **ATTENDANCE MANAGEMENT FRAMEWORK**

### **1. GENERAL**

#### **1.1 APPLICATION**

- 1.1.1 Different patterns and duration of absence call for different approaches. This document therefore incorporates procedures for dealing with both short and long term absences. The Council has other policies which are relevant to attendance/ sickness matters, such as Health & Safety Policy, Equal Opportunity Policy, Stress Policy.
- 1.1.2 Not all patterns of absences fall neatly into one of the above categories and the pattern may change over a period of time. Some flexibility in approach may therefore be required.
- 1.1.3 Procedures governing sickness absence will apply to all employees unless otherwise stated, and will be applied fairly and consistently without discrimination on the grounds of marital status, gender, age, disability, sexual orientation, race, nationality, ethnic or national origins, trade union membership or activity, political or religious belief and unrelated criminal conviction. This policy does not form part of any employee's contract of employment and it may be amended at any time. The Council may also vary this policy including any time limits, as appropriate in any case. An example of this could be during an employee's probationary period where it would be entirely reasonable to shorten procedures. In other circumstances, it may be necessary for longer time limits to apply, for example if the matter is complex or if unexpected events occur that protract the procedure to be adopted.
- 1.1.4 It is accepted that there may be circumstances where the nature of the illness may make it preferable for the return to work interview or welfare visit to be conducted by a person of the same gender as the employee or exceptionally by someone other than the line manager. A request for this will be accommodated where it is possible to do so.
- 1.1.5 Employees will be given a minimum of 5 working days notice, in writing, of any formal absence review meeting, be advised of the reason for the meeting and of their right to be accompanied by a representative of a recognised trade union or a work colleague. The employee may request to forgo their right to a minimum 5 days notice and the meeting can be held sooner. It will be the responsibility of the employee to make the necessary arrangements with their chosen representative.
- 1.1.6 Where a manager has planned to visit the employee at home a request by the absent employee to be seen at work or a suitable alternative location should be accommodated where possible.
- 1.1.7 The Council reserves the right to arrange a medical examination of an employee at any time where there is concern about the employee's mental or physical health or the employee's sickness record.
- 1.1.8 Decisions will be taken on the strength of available evidence in cases where employees refuse to co-operate in the obtaining of medical evidence or to undergo medical examination.
- 1.1.9 Any period of sickness absence not covered by a self or fit note may not be paid and will be considered to be unauthorised unpaid leave in accordance with

Section 2 “Notification of Absence”. This decision would be made in conjunction with the HR Manager.

- 1.1.10 The Council reserves the right to terminate employment in accordance with this policy prior to the expiry of occupational sick pay.
- 1.1.11 Any costs incurred by the employee for the issue of fit notes requested by the Council, beyond the statutory requirement for medical certificates for sickness absences exceeding 7 days, will be reimbursed upon the production of a receipt.
- 1.1.12 At all stages of the procedures an employee may seek advice and support from Human Resources or trade union representative.
- 1.1.13 It is the council's intention to review the Attendance Management Framework in consultation with Unison on a three yearly basis.
- 1.1.14 The council recognises that absence from work due to ill health is not normally a disciplinary matter. In such circumstances the employee has not done anything wrong; their absence is due to ill health. However, it is important that if an employee's absence has reached or is close to reaching a level where, without better attendance, their continued employment is at risk, this will be made clear to the employee and in these circumstances the relevant stage of the framework will be followed.

## 1.2. DEFINITION

This framework applies to sickness absence as defined below:

- self certification
- absence supported by a fit note
- short term absence which may be intermittent/persistent
- long term continuous absence
- absence resulting from industrial injury

## 1.3 SICKNESS SCHEME

- 1.3.1 Occupational sick pay forms part of the Local Government Conditions of Service. Details of the Sickness Scheme are to be found in the conditions of service handbooks i.e. the National Joint Council Pay and Conditions of Service and the Joint Negotiating Committee for Local Authority Craft and Associated Employees.
- 1.3.2 Sick pay **may not** be paid under the following circumstances:
  - (i) falsification of certificates (self and medical)
  - (ii) failure to follow the procedures in accordance with this policy and framework without good reason
  - (iii) abuse of the sickness scheme
  - (iv) deliberate conduct prejudicial to recovery
  - (v) employee misconduct, negligence or recklessness in undertaking any activities either in, or outside, the Council's employment
  - (vi) active participation in professional i.e. paid sport

- (vii) injury whilst working in the employee's own time on their own account for private gain or for another employer.

1.3.3 The council will advise the employee of the grounds for the suspension of sick pay. The employee has the right of appeal against the suspension; the appeal will be heard by the relevant Senior Manager. If the Manager decides that the grounds were justified then the employee shall forfeit the right to any further payment in respect of that period of absence. Circumstances (i) - (v) in paragraph 1.3.2 above will constitute misconduct and will be dealt with in accordance with the council's disciplinary procedure.

1.3.4 In the event that an overpayment of occupational sick pay is made the Council has the right to recover such payment but should endeavour to seek agreement with the employee regarding the amount and method of payment from each salary/ wage payment (which should not exceed 10% of normal gross pay) until the overpayment amount has been recovered in full. Where pay expires prior to full recovery of the overpayment the outstanding amount will be recovered from any remaining payments due. Where all pay has been exhausted an invoice will be raised and sent direct to the employee for recovery of the overpayment. Terms of repayment are to be agreed on an individual basis with the Payroll Section.

1.3.5 Where an employee claims loss of earnings from a private insurance company e.g. for sports injuries, car accidents, or from a private medical policy, for any period of absence from work, the Council reserves the right to make a third party claim or to seek repayment of occupational sick pay if an employee receives any income from a private insurance company. This excludes any payments made by way of compensation.

#### 1.4 DISCIPLINE

When a manager/supervisor identifies that an abuse of the absence procedure has occurred action should be taken, following an investigation, in accordance with the Council's Disciplinary Policy.

Examples of employee conduct in relation to absence where disciplinary action is appropriate include (this list is not intended to be exhaustive):

- failure to follow the notification rules without good reason
- providing an unsatisfactory reason for being absent from work
- failure to provide fit notes when required
- abuse of the sickness scheme
- engaging in activities which are known to be inconsistent with the nature of the alleged illness
- engaging in any activities which knowingly aggravates the nature of the illness or delays recovery
- deliberate falsification of self or medical certificates

#### 1.5 ROLES AND RESPONSIBILITIES

- **All employees** of the Council have a role to play in optimising their own attendance
- Responsibility for minimising absence exists at all levels of management throughout the Council. However, the primary responsibility for monitoring

and managing absence on a day to day basis rests with line managers and supervisors.

**Chief Officers /Deputy Chief Executive will:**

- establish and communicate a hierarchy of responsibility for managing absence within their area of responsibility
- communicate specific local arrangements for application of procedure to employees within their area of responsibility
- set absence target levels for their area of responsibility within the scope of the corporate absence target level
- develop, implement, monitor and revise periodically action plans to reduce sickness absence and meet agreed target levels
- ensure adherence to this policy and framework and other corporate and local sickness absence management initiatives as and when introduced
- report sickness absence levels and management action to SLB on a regular (quarterly) basis.

**Line Managers/Supervisors will:**

- communicate this policy and framework and the expectations of the Council in terms of attendance to all employees and ensure compliance
- ensure accurate records are kept detailing dates, duration and reasons for absence of all employees and monitor absence through the identification and analysis of trends and patterns for individuals and groups of individuals within their area of responsibility using manual and IT generated statistics as appropriate. (See Section 12 “Confidentiality”)
- take all reasonably practicable steps to achieve and maintain targets for sickness absence within their area of operational responsibility
- assess Health and Safety issues in conjunction with advice from Human Resources staff, the Principal Safety, Health and Resilience Officer and the Occupational Health Service, as appropriate
- comply with the policy and framework and implement the various stages of the procedure as they are triggered
- attend training events to support the application of this policy and framework.

**Human Resources staff will:**

- develop and periodically review policies frameworks and procedures relating to the management of sickness absence, Health and Safety and Occupational Health in consultation with the Principal Safety, Health and Resilience Officer

- monitor corporate practice to ensure compliance with, and evaluate the effectiveness of, the policy and framework
- arrange appropriate training for all line managers/supervisors involved in the management of sickness absence
- provide advice and guidance to managers on health and safety, sickness absence management issues and specific sickness absence cases
- report corporate sickness absence levels, trends and action plans to Executive as required and the Scrutiny on a biannual basis
- report corporate sickness absence levels to each meeting of the Local Joint Panel.

**Individual Employees will:**

- take reasonable care of their own health and safety and attend work unless prevented from doing so by ill health or authorised leave
- report sickness in accordance with the framework
- submit appropriate documentation for all periods of sickness absence in accordance with the framework
- refrain from undertaking activities during sickness absence that may knowingly adversely affect a return to work
- keep in regular contact with their line manager/supervisor or other designated manager during their sickness absence and, subject to practical constraints e.g. hospitalisation, advise of all developments relating to their absence
- attend for medical examination as required
- not abuse the sickness absence framework and sick pay scheme.

## **2. NOTIFICATION OF ABSENCE**

- 2.1 On the first day of absence the employee will notify directly their manager/supervisor, or in their absence a designated substitute, if they are unable to attend for work due to illness or injury.
- 2.2 Exceptionally, where the employee is incapacitated to such an extent that they cannot make contact personally, they must arrange for someone else to do so on their behalf in accordance with paragraph 2.4 below. The employee must make direct contact with their line manager/supervisor as soon as possible thereafter.
- 2.3 Unless specific local arrangements apply, notification should be made as soon as practicably possible prior to normal start of work or shift for that day/night, or where flexitime is operational contact should be made before the start of core time.
- 2.4 The line manager/supervisor should obtain the following information:
- (i) Employee's name and service area within which they work

- (ii) reason for absence (this should be the general nature of any illness/injury and whether the absence is due to an injury sustained in the course of duty or related to a disability)
  - (iii) when the employee anticipates they will be able to return to work
  - (iv) any work issues which require immediate action
  - (v) if any assistance or advice is required by the employee.
- 2.5 Employees who become unwell during the working day/night and feel unable to continue their duties will notify their line manager/supervisor, or designated substitute, if they need to leave their place of work.
- 2.6 If the absence continues beyond 3 calendar days and the employee has not provided further notification, the employee or, in exceptional circumstances, the person acting on their behalf must contact the line manager/supervisor on the 4<sup>th</sup> calendar day and give details as described in paragraph 2.4 above. Should the 4<sup>th</sup> day of absence fall upon a non working day contact should be made on the next working day.
- 2.7 If the absence lasts, or is expected to last more than 7 calendar days the employee will provide the Council with a fit note. A photocopy is sufficient.
- 2.8 Subsequent fit notes must be submitted to cover all absence if it extends beyond the period covered by the initial fit note. They must be consecutive and cover all days including weekends.
- 2.9 Employees must return to work as soon as they are fit to do so. Employees are able to return to work at any time (including before the end of the fit note) without going back to see their GP. This is also the case even if the doctor has indicated that they need to assess the employee again. **However, Managers should undertake a risk assessment before the employee can return.**
- 2.10 The fit note may state that the employee is fit to return but with restrictions such as:
- a phased return to work
  - flexible working
  - amended duties
  - workplace adaptations
- If the doctor has recommended any of the above in 2.10 the line manager/supervisor should liaise with HR. The fit note must be submitted to the line manager/supervisor as soon as possible. For further advice on adjustments please refer to 14.6 of the policy.
- 2.11 Failure to comply with the absence notification requirements may lead to the absence being considered unauthorised resulting in sickness allowance being withheld. (See paragraph 1.4 'Discipline')
- 2.12 If contact is not made by the employee as required during the absence and the absence is unexplained, the manager will take reasonable steps to contact the employee e.g. telephone call, letter, home visit.

- 2.13 If an employee knowingly submits false information in relation to their incapacity it will be dealt with in accordance with the Council's Disciplinary Policy.

### **3. RECORDING ABSENCE**

- 3.1 Line managers/supervisors must ensure that accurate records are kept for all periods of sickness absence for all employees.
- 3.2 Time off for the following appointments:
- ante natal appointments
  - disability related treatment i.e. rehabilitation, assessment, treatment
  - absence due to industrial disease, accident or assault arising out of or in the course of employment in the authority.
  - medical e.g. GP, hospital, clinic, physiotherapy, dental, optician, chiropody etc. should not be recorded or monitored as sickness absence, but should be recorded separately (see Section 13 Time off for Medical Appointments):
- 3.3 The sickness absence information recorded will include dates and periods of absence, reasons for absence and methods of certification i.e. self/medical certification. Sickness that results in absence occurring part way through the working day/night should be included when the absence amounts to, or exceeds, half the working day/night.
- 3.4 The line manager/supervisor will record all relevant details, using the Sickness Absence Form upon notification of sickness absence by the employee.
- 3.5 On the employee's return to work the employee will sign a statement detailing the reasons for absences up to and including 7 days. Also, the line manager/supervisor will record all relevant details of the return to work discussion.
- 3.6 Documentation including fit notes, will be retained on the employee's personal file and treated in the strictest confidence. (See section 12 "Confidentiality")
- 3.7 Employees can have access to their own absence/medical records within no more than 3 working days of HR receiving the written request.
- 3.8 Line managers/supervisors will complete and maintain any additional records as necessary in order to monitor/analyse sickness absences.

### **4. MONITORING**

- 4.1 Monitoring of sickness absence will take place at individual, team and corporate levels on a continuous basis by line managers/supervisors and designated officers.
- 4.2 When monitoring sickness absence, at any level, managers should seek to identify and analyse patterns of absence and trends and develop management strategies and action plans in consultation with Human Resources, as necessary, to address identified problem areas.

4.3 Individual cases will be monitored by the line manager/supervisor in accordance with persistent short term and long term absence procedures. (See sections 6 and 7 respectively)

4.4 Sickness absence will be monitored corporately by the Human Resources Team to identify levels of absence across the Council, associated costs, patterns and trends.

## **5. RETURN TO WORK**

5.1 Following **every** period of sickness absence, whether self or medical certified, a return to work interview will be carried out, in private, by the line manager/supervisor on a one to one basis.

5.2 The interview should take place on the day the employee returns to work. However it is acknowledged that on some occasions this may not be possible e.g. certain shift workers. In such cases the interview should be conducted at the earliest practicable opportunity following the employee's return to work in accordance with agreed local arrangements.

5.3 The interview will provide the opportunity to make sure the employee is fit to return to work, discuss the nature of the illness and any patterns of absence which may be occurring. It will also be an opportunity to discuss any perceived work related problems, identify any underlying problems which may be contributing to the employee's absence and to consider any reasonable support to assist the employee.

5.4 If, exceptionally, in the line manager/supervisor's opinion, the employee is not fit to return to work, the employee may be suspended on medical grounds pending medical reports. Such action would normally be taken in consultation with the Council's Occupational Health provider and Human Resources.

5.5 In the case of employees returning from long term absence the implementation of any agreed phased return and/or restrictions on work activities should be discussed as appropriate (see paragraph 7.7.1(iii)) and section 14.6

5.6 The line manager will ensure that all periods of absence are covered by the appropriate fit note for absences of 7 or more days' duration. If the duration of the absence is up to, and including, 7 calendar days (including weekends) the employee will be required to sign a self certificate of sickness absence form during the interview.

5.7 The salient points of the interview will be recorded and a copy will be retained by the employee. This will become a component of the employee's health record and be retained on his/her personal file. (See section 12 "Confidentiality")

## **6. PERSISTENT/INTERMITTENT SHORT TERM ABSENCE**

### **6.1 DEFINITION**

6.1.1 It is accepted that employees will have the occasional short term absence due to minor ailments. However, persistent/intermittent short term absences (which are usually sporadic in some cases unconnected, and which are frequent) cause disruption to the Council and need to be effectively managed.



## 6.2 MONITORING

- 6.2.1 Short term absences can be particularly disruptive because of the unpredictability and difficulty in arranging cover. Consequently essential work may have to be undertaken by work colleagues in addition to their normal duties. The potentially serious effects on other employees, the cost of such absence and disruption to service delivery must be kept to a minimum therefore regular short term absences will be closely scrutinized by managers

## 6.3 MANAGEMENT TRIGGER POINTS

- 6.3.1 The procedure for dealing with persistent short term absence will be triggered by the following:

- 3 occasions of absence (whether certified or uncertified) in a 3 month rolling period; or
- 4 occasions of self certified absence in a 12 month rolling period; or
- 8 days absence in a 12 month rolling period (this may comprise a single or multiple absences certified or uncertified.)

- 6.3.2 The triggers will be in line with the corporate sickness target that is agreed each year. The trigger points will be communicated to employees.

- 6.3.3 If a manager wishes to apply their discretion and change an employee's trigger point for absences then this should only be applied in exceptional circumstances. The manager must also be able to justify, discuss, record and seek approval with their Senior Manager and HR.

## 6.4 PROCEDURE

### 6.4.1 General

- 6.4.1.1 Occupational Health may be consulted at any stage of the procedure, where there is concern about the employee's health, but **must** be consulted before any action is taken under Step 3. If it has been highlighted that an employee has an underlying medical condition/ disability then an occupational health referral is required to be carried out at this stage.
- 6.4.1.2 Managers should, before entering into the stages of the procedure, ensure that the Human Resources Manager is aware of the situation. Occupational Health referrals are made by HR
- 6.4.1.3 If considered appropriate the facility to self certify sickness absence may be withdrawn at any point in the procedure. In such circumstances the employee will be required to produce a fit note from their doctor for any further period of sickness absence. Failure to do so may result in suspension of sick pay. The Council will reimburse the cost of obtaining any medical certificates upon production of a receipt.
- 6.4.1.4 In cases where it is suspected that unwarranted absence has been taken and ascribed to ill health the matter may be more appropriately addressed through the disciplinary policy. Advice should be sought from the Human Resources Team.

## 6.4.2 Representation

6.4.2.1 Employees are entitled to be represented by their trade union representative, or work colleague in all the stages of the sickness absence management process as outlined below (see paragraph 1.1.5)

6.4.2.2 Representation, as such, is not always necessary before this point. However trade union representatives can often play an important role in resolving matters before the relevant stage has been reached, therefore should an employee request to be accompanied by their trade union or work colleague, this will not unreasonably be refused.

## 6.4.3 STEP 1: CONSULTATION MEETING

6.4.3.1 When an employee's absence level meets any of the trigger points in paragraph 6.3.1 the employee will be required to attend a consultation meeting with their line manager/supervisor. A consultation meeting may also take place at management's discretion in other cases where there are reasonable grounds for investigation.

6.4.3.2 The purpose of the consultation interview is to:

- (i) reiterate the standards of attendance expected of all employees
- (ii) discuss the employee's attendance record and reasons for absence. If a reason for absence is a disability related condition please refer to Section 16 'Disability.'
- (iii) seek to identify any underlying causes and the means of resolving them.
- (iv) consider whether it is advisable to seek occupational health advice. If a disability/ underlying condition has been identified please liaise with HR to arrange an occupational health referral. If advice needs to be sought the meeting should be adjourned to allow for the employee to be referred to occupational health to gain medical advice.

6.4.3.3 After full discussion of the reasons given for the employee's absence and consideration of the circumstances the line manager may determine that:

- no further action is necessary other than to continue to monitor absence OR
- the absence is a cause for concern.

6.4.3.4 Where cause for concern is registered all practical steps to alleviate the situation should be explored and an action plan, including any support mechanisms which may be appropriate, will be determined. A date will be set for a review which, under normal circumstances, will be within 3 months of the consultation meeting.

6.4.3.5 The outcome of the consultation meeting and any subsequent reviews, meetings will be confirmed in writing, detailing any action plan and targets for improvement and the consequences of not achieving such improvements. A copy will be retained on the employee's personal file.

#### 6.4.4 REFERRAL TO OCCUPATIONAL HEALTH

- 6.4.4.1 Where a decision has been made to refer an employee to Occupational Health the manager should contact the Human Resources Team who will make the necessary arrangements.

#### 6.4.5 REVIEW PERIOD

- 6.4.5.1 Where the medical evidence is that absences are caused by an underlying medical condition, it is probable that Occupational Health (normally in consultation with the employee's GP) will indicate appropriate medical treatment or medical guidance/support. Where treatment or support/guidance is available it should be possible to look forward to improved attendance. For guidance please refer to section 14 ('Occupational Health Referrals' and Section 16 'Disability') for further guidance.

- 6.4.5.2 Where medical evidence is that there are no underlying reasons for the incidence or frequency of absence the manager should inform the employee that the level of sickness absence is unacceptable and ensure that he/she understands the consequences of this continuing. The manager will, under normal circumstances, review the position at the review meeting, the date of which was set at the formal counselling interview.

- 6.4.5.3 Where advice has not been requested the line manager/supervisor should consider whether there has been any improvement in the employee's sickness absence record or whether a medical opinion is now necessary.

#### 6.4.6 STEP 2: ABSENCE REVIEW MEETING - NO ACCEPTABLE IMPROVEMENT OR FAILURE TO MAINTAIN IMPROVEMENT IN ATTENDANCE LEVELS.

- 6.4.6.1 Where there is insufficient improvement in the employee's sickness absence level or where the attendance has improved to an acceptable standard for a period of time but the acceptable level is not maintained an Absence Review Meeting will be conducted by a senior manager or his/her representative.

- 6.4.6.2 The senior manager will reaffirm the issues discussed at the previous meetings and explain that the situation is becoming more serious. The employee will have the opportunity to offer additional information or notify of change in circumstances. The senior manager will consider any medical/occupational health reports and evaluate the effectiveness of any support mechanisms that have been implemented.

- 6.4.6.3 Additional support mechanisms may be considered, if appropriate, e.g. temporary/permanent change in hours of work, change in job content, redeployment. Targets and a time scale for improvement will be determined and if appropriate, a further action plan which may include obtaining additional medical information/advice.

- 6.4.6.4 The period of review, under normal circumstances, should be no longer than 3 months from the date of the meeting. The employee should be advised of the consequences of failure to improve attendance at work within the designated timeframe i.e. that the possibility of dismissal may arise.

- 6.4.6.5 A formal caution may be issued at this stage which will be kept on the employee's personal file for a period of 1 year. If an employee wishes to appeal against the formal caution, this must be in writing to the Human Resources

Manager, stating the grounds for appeal within 10 working days of receipt of the written confirmation.

However, if it is established that there is a pattern of behaviour which indicates that improved attendance is maintained only for the period of the caution and a pattern of absence re emerges in the period following the caution then, in such circumstances, managers may proceed directly to step 3 below.

#### 6.4.7 STEP 3: FINAL ABSENCE MEETING - FORMAL MANAGEMENT ACTION

6.4.7.1 If, despite all reasonable support, there is still insufficient improvement in attendance or the employee has been unable to sustain an improvement a final Absence Review Meeting will be conducted by the Chief Officer/Deputy Chief Executive. It is strongly recommended at this stage that guidance and support (including attendance at the meeting) is sought from the Human Resources Team, if not already done so. The employee can be accompanied at the meeting by a recognised trade union representative or work colleague. (See paragraph 1.1.5)

6.4.7.2 The purpose of the final Absence Review meeting will be to consider whether there is any further action the Council can take to assist the employee in continuing their employment or whether employment should be terminated due to the employee's incapability to undertake their duties effectively either because of their recurring absences or their ill health (to include absences due to a chronic medical condition which has become unacceptable including a disability related condition where all reasonable adjustments have been considered.)

6.4.7.3 The employee and/or their representative will be given the opportunity to state their case.

6.4.7.4 When reaching a decision about whether or not to terminate employment the Chief Officer will consider issues such as:

- the likelihood of change in attendance
- the need for the work to be undertaken
- the impact of the employee's absence or ill health on other employees and service delivery
- the employee's overall absence record
- financial and cost implications
- representations made by the employee and/or representative
- medical advice received
- actions taken by both the employee and the employer to attempt to enable the employee to continue in employment.

This list is not exhaustive and the weight attached to each will depend upon the circumstances of the case, whilst balancing the needs of the employee and the Council.

6.4.7.5 The Chief Officer will also consider whether a further review period is appropriate and what other options, short of termination of employment, might be available

e.g. change of duties, redeployment. Where there is an underlying medical condition/disability and OH advice mentions suitability for alternative employment the Chief Officer needs to be satisfied they have considered/ discussed the option of alternative employment with the employee.

6.4.7.6 The Chief Officer must also be satisfied that any suggestions by OH regarding possible adjustments have been considered and given an opportunity to have an impact on the employee's level of attendance taking into account the length of absence, impact on the service and the position the employee holds.

6.4.7.7 Where all options have been explored, without success, and in the judgement of the Chief Officer, based on available information, the employee is incapable of fulfilling the contract of employment due to their absence record the employee will be dismissed with immediate effect with pay (subject to the usual tax and NI deductions) in lieu of notice given in accordance with contractual provisions unless there are extenuating circumstances. If an employee wishes to appeal against the dismissal, this must be in writing to the HR & Transformation Manager, stating the grounds for appeal within 10 working days of receipt of the written confirmation of dismissal. The appeal would be heard by a COB/ SLB member.

## **7. PROLONGED/CONTINUOUS ABSENCE**

### **7.1 DEFINITION**

7.1.1 For the purposes of this procedure long term absence is defined as continuous absence from work of 4 weeks or more. This can either be calculated as 4 actual weeks lost or an anticipated 4 weeks based on the receipt of a fit note or other medical advice. The Council will deal with instances of long term sickness absence on a case by case basis.

### **7.2 STEP 1 MAINTAIN CONTACT**

7.2.1 The Council wishes to achieve a balance between supporting employees who are ill and effectively managing long term sickness absences. The line manager/supervisor will therefore maintain reasonable contact throughout the period of absence to reflect genuine concern for the wellbeing of the employee, to keep up to date with progress, identify areas for support, ascertain the prospects of a return to work and when this might be, and determine whether any other action should be taken.

7.2.2 The frequency and form of this contact e.g. telephone calls, home/hospital visits will depend upon the circumstances and may vary from case to case. However a home visit is recommended before referral to Occupational Health. Alternatively the employee may be visited at the workplace or at a different venue by mutual agreement (see paragraph 1.1.6)

7.2.3 Home visits will be by prior arrangement other than in exceptional circumstances e.g. where reasonable attempts to contact the employee have proved to be futile.

### 7.3 STEP 2: REFERRAL TO OCCUPATIONAL HEALTH

- 7.3.1 Seeking medical advice through the Council's medical referral process is vital in all cases of long term absence. It should occur at the earliest practical opportunity in order to obtain a speedy and useful response on the likelihood of the employee's return to work in their current role (or in a different role on a temporary or permanent basis), the timeframe within which such a return is likely and the likelihood of a sustained return to work.
- 7.3.2 Normally where it is evident that the absence is to continue for more than 4 weeks managers should seek advice from Occupational Health in accordance with the process for referral (See paragraph 6.4.4 and section 14). This is a guide only and depending upon the circumstances Occupational Health referral may be earlier or later than this period.
- 7.3.3 In cases where the medical condition is clearly established (e.g. routine operation, broken limb), with a predictable and defined period of absence and it is unlikely to lead to further periods of absence referral to Occupational Health may be deferred. At the latest, medical referral must have been made by the twelfth week of absence.

### 7.4 STEP 3: REVIEW

- 7.4.1 An Absence Review meeting will be held by the line manager with the employee following receipt of the Occupational Health report to review the case and consider the options.
- 7.4.2 A full discussion will take place based on the content of the Occupational Health advice and any other relevant medical reports. The aim of the discussion is to ascertain
- (i) the full extent of the employee's illness, the treatment they are receiving and their progress towards recovery
  - (ii) whether they are likely to be able to return to work and if so an indication of a return date.
  - (iii) whether options are available to facilitate the employee's return to work. This will include consideration of adjustments that can reasonably be made to the employee's job to enable them to do so
- If necessary the Absence Review meeting will be suspended to allow for further investigations to be undertaken.
- 7.4.3 Consideration will be given at the Absence Review Meeting to the options available under the circumstances based on the Occupational Health advice which will generally fall within one of the following categories:
- (i) return to work within a reasonable period of time
  - (ii) no immediately foreseeable return to work. Further medical to be arranged at some point in the future
  - (iii) unfit to perform duties of present post.

7.4.4 In the event of a difference in medical opinion as to the employee's fitness for work, the matter shall, at the request of the Council or of the employee themselves, be submitted to an independent medical referee agreed jointly by the Council and the employee (or his/her representative).

## 7.5 RETURN TO WORK WITHIN A REASONABLE PERIOD OF TIME

7.5.1 If a return to work within a reasonable period of time is possible normally no further action is likely to be required unless the medical condition changes. In some cases a return may be accelerated by a phased return to work. (See paragraph 7.7.1 (iii))

## 7.6 STEP 4: CONSIDER OPTIONS

7.6.1 In circumstances where:

(i) it cannot be categorically stated by Occupational Health that the employee is capable of returning to work within a reasonable period of time or declare the employee permanently unfit for his/her employment

(ii) the level of absence due to a chronic medical condition has become unacceptable (including a disability related condition where all reasonable adjustments have been made)

(iii) Occupational Health evidence shows that the employee is unfit to perform the duties of their present post

The options for appropriate management action need to be considered and discussed with the employee.

7.6.2 In considering the options, where possible, the objective will be to facilitate a return to work, or in the case of chronic medical condition which result in continued long-term absence, reduce the incidence of absence to an acceptable level. The options will include

(i) allow further time for the employee's condition to improve and return to work or consider any adjustments that can reasonably be made to the employee's job to enable them to do so

(ii) recommend ill health retirement where the employee has pensionable service and subject to the Occupational Health recommendations

(ii) termination of contract on the grounds of capability

## 7.7 STEP 5: MAKING A DECISION

7.7.1 Following full consideration of the circumstances the manager may decide to allow a further period for the employee to recover and return to work either to their own duties or to a position more suited to their circumstances given their medical condition. The Manager should also refer to Section 14.6 'Occupational Health Advice and Section 16 'Disability'. Consideration should therefore be given to the following:

(i) Different approach to current job  
The possibility of adopting a modified approach to the job or introducing specialist equipment which will enable the employee to continue to carry out their main duties should be explored. A record should be kept on the

employee's personnel file of this discussion and the nature of any proposed adjustments and subsequent action noted.

(ii) Redeployment

The Council is committed to retaining the services of those employees, who as a result of disability, illness or injury, find they are no longer able to continue to perform the full duties of their post, but wish to continue to work for the Council. All reasonable attempts to secure suitable alternative employment within the Council will therefore be made. Managers should be aware of the requirements of the Equality Act 2010 and the need to make reasonable adjustments to assist an employee to continue at work.

(iii) Phased return to work

There may be occasions where an employee has recovered from a long term or debilitating illness but would find it difficult to return immediately to their full contracted duties and hours of work without further risk to their health or has sufficiently recovered to be able to carry out some of their duties/hours of work. In such cases managers are encouraged to take a flexible approach to facilitate the employee's earlier return to work by allowing a phased return, which is usually not more than 4 weeks

Following discussion with the employee the line manager may seek advice from Occupational Health on a suitable structured programme for a phased return to work. This may include restrictions on work activities and/or reduced hours.

The period of time over which the return is phased may be based on the advice of Occupational Health and agreed between the line manager and the employee.

Full contractual benefits and pay will be maintained for a maximum of 4 weeks of an approved phased return to work. Where reasonable the employee will be encouraged to use annual leave and/or flexitime during this period.

The manager will have discretion, based on medical evidence and in consultation with Human Resources, to extend the maximum 4 week period of phased return to work. Any continuation of the phased return would normally be via the use of annual leave, unpaid leave or reduced contractual hours of work.

- 7.7.2 Where a further period of time for recovery has been allowed and the employee has not returned to work the situation should be reviewed no later than 3 months following the Absence Review Meeting
- 7.7.3 Where Occupational Health evidence shows that the employee is unfit to perform the duties of their present post managers should, in consultation with Occupational Health, consider whether there are any suitable alternative posts available.
- 7.7.4 In cases where there is no return to work within a reasonable period of time and it has not been possible to redeploy or facilitate a return to work by other means (see paragraph 7.7.1 (i) a final Absence Review Meeting will be conducted by the Chief Officer (advised by Human Resources). The employee may be accompanied by a recognised trade union representative or work colleague (see paragraph 1.1.5)
- 7.7.5 The Chief Officer will discuss the situation fully with the employee and take into account any further medical information. The employee will be required to submit any additional or alternative evidence of their condition if appropriate e.g. own



GP/consultant's report prior to the meeting. If necessary the meeting will be suspended to allow for further investigations to be undertaken.

7.7.6 If, following discussion, the Chief Officer is satisfied all reasonable attempts have been made to retain the employee in employment he/she may decide to

- (i) allow a further period of review
- (ii) recommend ill health retirement
- (iii) where ill health retirement is not an option terminate the contract of employment on the grounds of capability.

7.7.7 There is no requirement to wait indefinitely for the return of an employee or to create a special post for an employee on long term absence. Consideration will be given to whatever options are practical.

7.7.8 In considering dismissal the Chief Officer will take into account:

- the nature of the illness
- the employee's representations
- the need to have work done
- the expected date of return
- the effects on the Council of waiting any longer for a return
- actions taken by both the employer and the employee to attempt to enable the employee to continue in employment
- the impact of the employee's absence and ill health on other employees and service delivery
- medical advice received

7.7.9 Where the employee is retired on the grounds of ill health or their contract is terminated on the grounds of capability notice will be given immediately and pay in lieu of notice given in accordance with contractual provisions. The date of termination will be the date notice is served.

## **8. MEASURING ABSENCE**

8.1 Absence will be measured at all levels across the Council by line managers/supervisors and designated officers.

8.2 The measurement of absence will allow for accurate information to be compiled and analysed to:

- identify areas for management action
- compare absence levels and establish patterns and trends
- establish target absence levels and measure progress towards achievement
- prepare Best Value Performance Indicators and compare performance with other Local Authorities.

8.3 Corporate absence target levels will be set on an annual basis. COB/ SLB (informed by line managers) will determine annual absence target levels for their area of responsibility based on evidence to justify that level. This will then become an integral part of the business plan. The sum of all target levels must equate to the corporate target absence level.

## **9. REPORTING ABSENCE**

- 9.1 Based on absence data collected locally Heads of Service will produce reports providing data at cost centre and Team levels on a monthly basis.
- 9.2 Team absence levels together with any identified patterns or trends will be reported to Service Management Teams on a regular basis. Heads of Service will develop action plans and management strategies to address identified problem area as in paragraph 4.2 above.
- 9.3 Each Chief Officer will report the data and action plans outlined in paragraph 9.1 above to SLB on a regular (quarterly) basis.
- 9.4 Corporate sickness absence levels, associated costs, patterns and trends and action plans to address will be reported by the HR & Transformation Manager to the Cabinet and to the Scrutiny Commission on a regular basis.

## **10. ATTENDANCE AT INTERVIEWS/HEARINGS**

- 10.1 The Council will try to agree a mutually convenient date for the employee and their companion to attend formal interviews and appeal hearings. Where the chosen companion cannot attend on the date proposed an alternative date may be agreed so long as it is reasonable and falls within 5 working days of the original proposed date, except under exceptional circumstances, in which case the time period may be extended.
- 10.2 Non attendance of the employee and their companion, however, will not invalidate the proceedings and the relevant senior officer may proceed, if considered appropriate.

## **11. APPEALS**

- 11.1 If an employee wishes to appeal against a decision to dismiss, whether made on medical or capability grounds, the request must be made in writing to the Human Resources Manager, stating the grounds for appeal, within 10 working days of receipt of the written confirmation.
- 11.2 Recommendation for Ill Health Retirement
  - 11.2.1 Where an employee disagrees with the Occupational Health recommendation to retire the employee on medical grounds, the employee will be referred to an independent doctor, to be agreed with the employee. Additionally the employee has the right to appeal to the 'appointed person' nominated by the Leicestershire Pension Fund under the Local Government Pensions (Internal Disputes Resolution) Procedure Regulations 1997 in respect of any recommendations made by the Occupational Health Doctor which has implications for their pension entitlements.
  - 11.2.3 The decision of the Appeals Panel is final within the Council's internal procedure.

## **12. CONFIDENTIALITY**

- 12.1 The attendance record of employees and other personal details about their health is confidential and supervisors and managers must not disclose information to anyone else other than people who need to be aware of it as part of the operation of the Attendance Management Framework.
- 12.2 Any deliberate and unwarranted breach of confidentiality will be dealt with under the Council's Disciplinary Procedure.

## **13. TIME OFF FOR MEDICAL APPOINTMENTS**

- 13.1 Employees should strive to accommodate appointments outside core or working hours if possible. However time off for the following will be with pay and should not be recorded or monitored as sickness absence
- ante natal care
  - disability related treatment i.e. rehabilitation, assessment, treatment
  - hospital appointments

Employees will be required to produce evidence of such appointments

- 13.2 All employees are expected, where reasonably practicable, to take other medical/health related appointments outside of core or normal working hours for example: G.P, physiotherapy, dental, optician, chiropody appointments etc. When this is not possible appointments may be taken within normal working hours with the time to be made up by the employee by arrangement with the line manager. These absences should not be recorded or monitored as sickness absence.

## **14. OCCUPATIONAL HEALTH REFERRALS/ GP ADVICE/ FIT FOR WORK ADVICE**

- 14.1 The Council's Occupational health provider and/ or the employees GP may be consulted at any stage in the procedures wherever there is a concern about the employee's health but should be consulted before action is taken under specific paragraphs specified in the procedures for dealing with intermittent/persistent short term absence and prolonged /continuous absence.
- 14.2 The purpose of referral is to obtain a medical assessment of the employee's health in the context of his/her employment which will aid the Council in supporting the employee and making appropriate decisions regarding their employment. Referral is not a sanction or form of quasi disciplinary action and must not be used or presented in this way.
- 14.3 Referral for medical assessment will be made by the line manager/supervisor via Human Resources.
- 14.4 If a medical examination is recommended by the Occupational Health Adviser an appointment will be made directly with the employee by the Occupational Health Adviser at the earliest opportunity.
- 14.5 Following the medical assessment the Occupational Health Adviser will inform the employee of the findings and confirm this in writing from their Manager. The report will be discussed with the line manager and Human Resources to enable the line manager to take appropriate action.

## 14.6 OCCUPATIONAL HEALTH (OH) ADVICE/ GP ADVICE (from Fit Note)/ FIT FOR WORK ADVICE – POSSIBLE RECOMMENDATIONS

### 14.6.1 Reasonable adjustments

OH/ GP/ FIT FOR WORK may suggest adjustments to help employees return to work. The adjustments suggested should be considered by the manager in consultation with the employee and, where reasonably practicable may be accommodated. If the manager does not feel that they can be accommodated, a discussion with HR is advisable.

### 14.6.2 Phased return

It may be recommended that the employee returns to work on a phased return basis, if this is possible a phased return is usually no more than 4 weeks, during which time the employee is paid on full pay but with reduced hours. The aim of the phased return is to help deliver a gradual successful return to work.

If a phased return of more than 4 weeks is recommended the manager should consider whether this can be accommodated and a discussion with HR is advisable. The employee will be paid in full pay (for a maximum of 4 weeks) or alternatively there are options such as the use of the employee's annual leave, flexi time, and time off in lieu or unpaid leave.

### 14.6.3 Temporary alternative work

It maybe suggested as an adjustment for the employee to carry out alternative work. This may be considered in cases where an employee is unable to perform the full range of their duties but is able to attend work and undertake restricted duties or alternative duties for a temporary period, with the expectation that they will be able to resume full duties in the near future.

Temporary alternative work of this nature will normally be part of a return to work plan, incorporating the advice from OH or it could be from a Fit Note/ Fit for Work. Any temporary change in duties for the duration of the GP's Fit Note does not constitute a variation of terms and conditions of employment.

### 14.6.4 Change of hours

It may be suggested from OH or a Fit Note/ Fit for Work that the employee reduces their hours for a period of time, usually more than the 4 week phased return duration. The manager will need to review whether this can be accommodated and consideration should be about whether the employees duties can be carried out part time, how long the adjustment is recommended for and how the service will be provided.

If this adjustment can be accommodated and the employee is in agreement to reducing their hours and they are aware that this will impact on their salary then the manager will notify Human Resources, specifying how long this temporary reduction in hours is for.

#### 14.6.5 Medical intervention

The employee maybe advised the use of additional medical intervention for the employee to either assist the employee with a return to work sooner or to help the employee to remain at work.

If this is recommended then it is advisable for the Manager to speak to HR to see if this can be arranged.

#### 14.6.6 Further OH Review

Where OH recommends a further assessment, they may state a time frame when this should take place or instead state it should take place when a particular treatment has ended or when they have received advice from the employees GP/ Specialist. In these cases the manager will need to continue to progress through the framework and at the specified time make a new referral to OH.

#### 14.6.7 Risk assessments

There may be times when it is recommended that the manager undertake a risk assessment to establish the potential risks for the employee associated with their health condition and being at work. This will help the manager to evaluate what the potential risks are. If a Risk Assessment is required please arrange this through our Health & Safety Officer.

14.7 The employee has statutory rights under the Access to Medical Reports Act 1998. Their consent is required for the Council to apply to a doctor, who has responsibility for their care, for a statement giving information about their current health situation. Consent will be sought by the Occupational Health Adviser before making any such requests for information. If the employee refuses to give their consent they will be advised that any subsequent decision taken by the Council will be based on the facts that are available. Employees also have a right to see their doctor's report before it is forwarded to the Council's Occupational Health Adviser. Further details are available from Human Resources staff or trade union representatives.

### **15 SPECIAL CIRCUMSTANCES**

#### 15.1 PREGNANCY RELATED ABSENCE

15.1.1 Pregnancy related absence will be recorded but will be disregarded when calculating absence in terms of trigger points (see paragraph 6.3.1). However absences during pregnancy which are not pregnancy related will be monitored and managed as with any other absence. Consultation with the employee and the employee's G.P. may be necessary to confirm/ clarify which absences are pregnancy-related.

#### 15.2 TERMINAL ILLNESS

15.2.1 Managers should deal with such situations compassionately taking into account the wishes of the employee and their financial situation as well as the needs of the organisation. Each case will be considered on its own circumstances and advice must be sought from Pensions, Occupational Health and Human Resources.

- 15.2.2 There are occasions where an employee with a terminal illness wishes to be dismissed on ill health grounds and may be eligible for early release of pension benefits, if they are a member of the Local Government Pension Scheme. Factors taken into consideration include the medical condition and prognosis, as this may be critical in establishing the most appropriate course of action.
- 15.2.3 In extreme cases, the employee will remain on the payroll, after they have exhausted their entitlement to sick pay. This removes the need to add further distress by formally dismissing someone who is suffering from a terminal illness where it is to the employee's advantage to remain in service due to their entitlement to benefits, such as death in service.

## **16 DISABILITY**

- 16.1.1 The Equality Act 2010 prohibits discrimination due to disability and places a duty on employers to make reasonable adjustments to working practices and premises in certain circumstances in order to accommodate the needs of individual employees and job applicants who have a disability. This means that an employee with a disability must not suffer a disadvantage as a result of their disability.
- 16.1.2 The Equality Act 2010 defines the protected characteristic of disability as applying to a person who has a physical or mental impairment that has a substantial and long term (which has lasted or is likely to last 12 months or more) adverse effect on their ability to carry out normal day to day activities.
- 16.1.3 If there are problems with an employee's attendance and an underlying medical condition or a disability is identified, the Line Manager must have an open discussion with the employee and if appropriate seek advice from OH. OH may be able to suggest adjustments that could reasonably be put in place to either amend/ adjust the physical place of work, the work itself or provide supportive/ assistive equipment.
- 16.1.4 The Council is aware that sickness absence may result from a disability. At each stage of the sickness absence meetings procedure (set out above), particular consideration will be given to whether there are reasonable adjustments that could be made to the requirements of a job or other aspects of working arrangements that will provide support at work and/ or assist a return to work.
- 16.1.5 If an employee considers that they are affected by a disability or any medical condition which affects their ability to undertake their work, they should inform their line manager or HR.
- 16.1.6 Advice should be sought in regard to reasonable adjustments, please liaise with HR

**Date December 2015 (updated)**