

# Sickness absence management

---

## Policy & procedures

### **1. POLICY FOR MANAGING SICKNESS ABSENCE**

#### **1.1. Introduction:**

- 1.1.1. The Council considers the contribution of its staff to be of paramount importance in delivering excellent services to our residents. Staff are our major resource and our service standards and objectives cannot be met without the full participation and contribution of everyone. We recognise and accept our responsibility to employees to ensure that the working environment is safe and that conditions of employment are conducive to good health and well-being.
- 1.1.2. Employees will occasionally be off work because of ill-health. Most people generally have no more than two or three days' sickness a year, if any, and this level of sickness absence presents little problem. Some staff have significantly higher levels of sickness absence, and this can cause a number of problems – in terms of service provision, pressure on colleagues and cost. This policy is aimed at providing a fair and consistent framework for tackling any problems caused by absence from work.
- 1.1.3. A satisfactory level of employee attendance at work is crucial to the success of the Council, bearing in mind that high absence rates reduce the resources available to provide excellent services to our residents. An unsatisfactory level of attendance reduces our available resources and can have a negative impact on how we deliver our services. It also places colleagues under undue pressure.
- 1.1.4. It is the responsibility of each member of staff to be in attendance at work in order to fulfil his/her contract of employment. The Council will act as a reasonable employer at all times in its dealings with employees who are absent due to ill health. Wherever possible we will seek to ensure, based on medical opinion, that staff have sufficient time to recover their health so that on return to work they are able to properly fulfil the requirements of their job and their contract of employment.

#### **1.2. Purpose of the Policy:**

- 1.2.1. The purpose of this policy is to help managers and staff achieve and maintain an optimum level of attendance at work; to ensure that attendance is managed effectively and that the sickness scheme is not abused, whilst ensuring that members of staff with genuine illness are treated sensitively. This policy and its procedures set out an approach which is designed to ensure consistency and fairness across the Council as a whole. This document defines roles and

responsibilities of both managers and staff and highlights the potential penalties incurred by failure to follow the policy and implement the associated procedures.

1.2.2. This policy is for the sole purpose of managing absence due to ill-health. Other forms of absence are covered under other policies such as Flexible Working.

### **1.3. Aims of the Policy:**

1.3.1. The aims of the policy are:

- To manage absence due to ill-health.
- To ensure that all staff are treated fairly, consistently and with sensitivity during times of illness.
- To provide managers with a framework for managing attendance.
- To provide managers with guidelines on how to manage different types of absence.
- To provide managers with guidelines on how to identify, at an early stage, absence patterns which may give cause for concern so that these can be investigated and managed appropriately and in a sensitive manner.
- To ensure that all employees are aware of their contractual obligations to adhere to the Council's sickness absence management policy and to ensure that all staff are aware of the reporting requirements under the policy.
- To ensure that all staff are aware of their responsibility to maintain the required level of communication with their manager as outlined in the policy when they are absent due to sickness.
- To minimise disruption to the provision of service.
- To eliminate unnecessary sickness absence.
- To deal effectively with any abuse of the sick pay system.
- To deal effectively with those staff and managers not adhering to the policy and associated procedures.
- To help to ensure the continued viability and success of the Council and its staff by ensuring the provision of a cost-effective, high quality service to all the Borough's residents.

### **1.4. Definition of Absence:**

This policy relates to absence due to ill-health or injury. Any other type of absence without prior approval will be dealt with under the Council's disciplinary code.

## **1.5. Types of Absence:**

Patterns of absence are rarely identical. It is normally sensible to take a different approach to managing staff with several short absences to those with a single long spell. However, often absence concerns will be raised following a record of absence that will include both short and long term spells. Managers will need to consider, in consultation with their HR Business Partner, the most suitable approach for dealing with this. If the absence relates to a disability then always consult with HR to ensure that reasonable adjustments, if applicable, have been considered.

### **1.5.1. Short-term Absence:**

Short-term absence is defined as absence of short duration lasting one day to four weeks.

Occasional single spells of short-term absence are generally not a problem and not likely to present any significant problem for the Council. However repeated short-term absences can be problematic and sometimes begin to develop into a pattern of absence unique to an individual employee.

### **1.5.2. Frequent Absence:**

Frequent absence is defined as a number of absences over a short, medium or long-term period.

Frequent casual absence must be identified at the earliest possible stage.

### **1.5.3. Long-term Absence:**

Long-term absence is defined as any certified sickness related absence of four weeks or more duration.

These absences, always certified, will benefit greatly from efficient medical management of the underlying problems. Close co-operation between the Occupational Health Service (OHA), the employee, the line manager and senior managers is essential in the resolution of this type of absence. The Council will make its best endeavours to help staff on long-term sickness back to work but resolution may ultimately include termination of employment on grounds of incapacity.

## **1.6. Under what criteria is absence assessed?**

- 1.6.1. In addition to monitoring the total number of days of absent and the number of spells, managers also monitor the Bradford Index Score to ensure there is a consistency in management's approach to initiating formal action. The Bradford Scoring System is a widely used method of monitoring absenteeism, which identifies those staff who have a recurring absenteeism record. It weights the

score in such a way as to identify those with a number of short spells of absence and which require management attention.

- 1.6.2. The Bradford score formula is  $S \times S \times D$  (where S equals the number of spells of sickness absence and D equals the total number of days). The Bradford Index generally compares 12 month's data. If the period under review is less than this, data will be adjusted to give a fair comparison. Part time employees who do not work 5 days a week will have their Bradford score calculated in order to be comparable to those that work full time.
- 1.6.3. Formal sickness management procedure may also be prompted if there has been a high level of days absence (10 or more in any 12 months period), but the Bradford Index has not necessarily been triggered.
- 1.6.4. It is important to note that the desired aim of the Council's sickness absence procedures is to see an improvement in attendance. Defining what constitutes an improvement will depend on the circumstances of each case, but it is generally expected that, during the review period, absence will not hit the Council's trigger point and be significantly below average.

## **1.7. Roles and Responsibilities:**

### **1.7.1. Managerial Responsibilities:**

Absence control is a management function and one by which they will be measured. Each manager is responsible for the control of absence and for the sensitive, fair, and consistent treatment of staff who are unwell. Each manager has the general responsibility to:

- Ensure that absence is never ignored.
- Ensure that the employee provides a "Fit Note" (Med 3) for all periods of sickness absence of 8 calendar days or longer, or if requested by the manager.
- Ensure that a "Return to Work Interview" is carried out – ideally on the first day back at work (certainly within 7 working days of return).
- Make sure all absence is recorded, including the reason for absence.
- Ensure confidentiality of information at all times.
- Apply the Council's policies and procedures consistently.
- Ensure that a safe working environment is maintained.
- Promote an attendance culture within the team, through team meetings, appraisals and individual practice.
- Develop appropriate communication skills in order to deal with individual cases in a fair and sensitive manner.
- Effectively manage teams and individuals to optimise their contribution
- Know when and where to seek additional advice and support.

- Monitor the attendance of all members of staff for whom they have responsibility.
- Ensure that all staff are aware of performance standards expected and that attendance is regularly monitored.
- Treat members of staff who suffer ill-health sympathetically, fairly and consistently.
- Ensure as part of induction of new staff that the importance of this policy is emphasised and that all new appointees have the policy explained to them and their obligation identified.
- Ensure that the probationary period of each new member of staff is used appropriately, that attendance records are monitored and that appropriate action is taken as soon as any problems emerge.
- Ensure that this policy is implemented in its entirety; that each member of staff is aware of the policy and their responsibilities within the policy and that there is no abuse of the sick pay scheme; that all absences are monitored and that all necessary and appropriate action is carried out.
- Ensure that staff are kept informed of absence levels within the team
- Endeavour to find out the cause of absence
- Keep absent staff informed of changes/events within Department/Service Unit, including sending Staff Briefs, key Internet news items etc.
- Are strongly advised to seek guidance from the HR on matters concerning “exercising discretion in sickness cases” (see 2.12)

#### 1.7.2. Role of Senior Managers :

As well as the wider roles and responsibility of other managers, it is ultimately the responsibility of senior managers to monitor the attendance of staff within their sections/departments.

Senior managers are required to take an active role in ensuring that:

- Attendance is managed effectively and consistently.
- All staff adhere to the policy.
- Statistics on attendance is a regular agenda item at staff meetings.
- Monthly reports on attendance are monitored, reviewed and appropriate action taken.
- All efforts are made to find out the reasons for non-attendance.

*Failure by managers to discharge their responsibilities could result in disciplinary action under the Council’s disciplinary procedure.*

#### 1.7.3. Employee’s Responsibilities:

Employees are expected to demonstrate their commitment to the Council and to meet the obligations of their contracts of employment by regular attendance at work and efficient completion of all tasks allocated by management.

Employees should only be absent from work when it is essential and their manager has been properly notified.

Employees have a responsibility not to abuse any procedures covering attendance at work.

Employees are expected to:

- Report absence to their direct line managers in accordance with the procedure and notification requirements as outlined in page 8.
- Attend the Occupational Health Advisor (OHA) as requested.
- Comply with all requests from OHA, which will facilitate a return, to work.
- Refrain from any activity, domestic, social or sporting, which may be prejudicial to recovery or likely to bring into question the reason for continued absence.
- Advise their line manager if they intend to take holiday as part of the recuperative process when this is part of medical advice.
- Ensure that they have read and fully understand this policy for managing sickness absence.
- Actively participate in informal and formal sickness meetings(as explained in the process below).
- Ensure that compliance with the certification requirements in terms of both self and medical certificates as necessary and on time is exercised and ensure that the whole period of absence is covered.
- On return to work attend and participate in a return to work interview with the line manager and/or senior manager.
- Provide medical certificates for all periods of sickness absence of 8 calendar days or longer, or as requested by your line manager

*Failure by employees to discharge their responsibilities may result in disciplinary action under the council's disciplinary procedure.*

#### 1.7.4. Role of the HR Team:

The Council's HR specialists have a responsibility to:

- Develop and promote policies and initiatives to minimise sickness absence.
- Provide information for managers about individual and Council-wide levels of absence
- Ensure that all managers understand their role and are aware of the advice and support that is available
- Support managers with managing individual cases
- Work closely with occupational health and other specialists to ensure a rounded approach
- Ensuring compliance with statutory duties e.g. Equality Act 2010 (see 1.8)

- Help with the interpretation of the procedure to ensure a consistent application across the Council.
- Facilitate and process Occupational Health Service referrals.
- Facilitate Contact Meetings.
- Monitor and review sickness absence statistics to make sure the policies and procedures in place are working
- Monitor the implementation of the policy, and recommend changes to the policy or procedures as appropriate.

#### 1.7.5 Occupational Health Service:

The Council has engaged an OHA to assist staff and managers with professional work-related health advice. The OHA will:

- Give advice to employees and managers on issues relating to health at work.
- Assess the likely return to work date for an individual employee.
- Give advice to employees, managers & HR on strategies to facilitate a return to work for an employee e.g. phased return.
- Advise line managers and HR if any reasonable adjustments are required to facilitate a return to work for an employee under the requirements of the Equality Act (see 1.8).
- Identify if counselling or any other specialist services are required to facilitate the return to work of an individual employee.
- Advise whether or not an employee is able to return to work to carry out the duties under their contract of employment.
- Provide letters of support, as appropriate.
- Provide reports to the Pension Scheme administrators in respect of ill-health retirement applications.
- Provide advice to the employee and help the employee to understand his/her illness and how to minimise its impact on their ability to work.

## 1.8 Equality Act

### 1.8.1 Definition of disability

Under the Equality Act a person has a disability if they:

- have a physical or mental impairment, and
- the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

‘Substantial effect’ is defined as one that is greater than the effect which would be produced by the sort of physical or mental conditions experienced by many people which have only ‘minor’ or ‘trivial’ effects. ‘Long term’ is when the effect of the impairment has lasted or is likely to last for at least 12 months (there are special rules covering recurring or fluctuating conditions). Some degenerative

illnesses will automatically be considered to be a disability from the time of diagnosis even if it is not impacting on an employee's ability to carry out day-to-day activities e.g. HIV, Muscular Sclerosis and cancer.

#### 1.8.2 Disability related absence and discretions

The sickness policy & procedure applies to all employees whether they have a disability or not. Although in all cases of disability related absence reasonable adjustments need to be considered under the Equality Act and may include higher trigger levels under the Bradford Index to take into account a higher absence level for the condition.. Contact your HR Business Partner for guidance.

### 1.9 Accidents at Work

In the event of an accident at work it is a legal requirement to comply with the Accident Reporting procedure. For further advice contact the Health & Safety Advisor and The Knowledge.

#### 1.10. Conduct During Sickness Absence:

- 1.10.1. The purpose of sickness absence is to facilitate employees' full and proper recovery from an illness or injury. This includes activities which are part of an agreed programme of rehabilitation. If staff are found to be using the scheme for purposes other than recovery, the Council will regard this as misconduct and disciplinary action may be taken.
- 1.10.2. Activities which would normally be considered by the Council to be inconsistent with genuine sickness or injury, or which otherwise contravene this policy include:
  - Participation in any sport, hobby, social or other activity which could aggravate the illness or injury or which could delay recovery.
  - Undertaking any other employment during sickness absence whether paid or unpaid.
  - Engaging in any other activity which is inconsistent with the nature of your illness or injury.
  - Altering or causing to have altered any of the details on your medical certificate, e.g. date, signature, reason for absence etc.
  - Giving the Council inaccurate or misleading information about your absence.

#### 1.11 Elective Surgery

Elective surgery is not generally considered to be medically necessary. This includes cosmetic surgery, which is concerned with the enhancement of appearance through surgical and medical techniques, e.g. liposuction, facelifts or breast implants. Employees are entitled to statutory sick pay (SSP) only,

providing they follow the sickness absence procedures. Employees may discuss with their line manager to agree taking annual leave for elective surgery but there is no automatic right to take time off.

## **1.12 Fertility Treatment**

The Council seeks to support employees, male or female, going through fertility treatment. The process of fertility treatment in itself is not “deemed incapacity” for sick pay purposes. Employees may discuss with their line manager to agree taking annual leave, or ETO (if accrued) or unpaid leave for fertility treatment but there is no automatic right to take time off.

However, the Council does recognise that fertility treatment can affect people in different ways and an employee undergoing the treatment may well be ill due to the procedure(s). If an employee does fall ill during fertility treatment, standard sickness processes will apply – i.e. an employee should self-certify for the first seven days of absence and from the eighth day a medical certificate should be obtained and forwarded to the line manager.

## **1.13. Return to Work After Long-Term Absence:**

1.13.1 Often, on the advice of the OHA, the Council is required to make reasonable adjustments to facilitate the return to work of an individual member of staff.

1.13.2. These reasonable adjustments can include:

- Reduced hours
- Temporary redeployment to another role or section.
- Phased return to work
- Homeworking (if feasible).

1.13.3. The Council will discuss reasonable adjustments, on an individual basis, with all employees who have been on long-term sick leave.

#### **1.14. Confidentiality:**

- 1.14.1. Managers should note that they have an obligation to maintain confidentiality at all times. Any breach of confidentiality may be regarded as a disciplinary offence.

#### **1.15. Review of Policy:**

- 1.15.1. The operation and effectiveness of this policy will be regularly reviewed and amendments will be agreed through the Council's Local Joint Forum.

#### **1.16. Version control information (policy)**

Policy status	Agreed August 2014
Agreed at informal LJF	5 August 2014
Agreed at formal LJF (if applicable)	N/A
Last review date	2004, 2008, August 2014
Next review date	2018
Author	Jackie Relffe-Arnold / Kate Brown

## **2. PROCEDURES FOR MANAGING SICKNESS ABSENCE**

### **2.1 Notifying your manager:**

- 2.1.1. If you are unfit for work due to ill health you must notify your manager of your absence at the earliest opportunity. In the absence of your manager, you should notify either the alternative nominated officer or another manager more senior than yourself. Notification should be via a telephone call made at around the time you normally start work and certainly no later than 10.00 am on the first morning of the first day of your absence. If you do not contact your manager on the first day of absence, this will be taken as unauthorised absence. SMS Texts or emails as the only notification are not acceptable. You must leave a contact number for your manager to call you.
- 2.1.2. If you become ill during the working day you must report to a manager who will discuss with you the most appropriate course of action. You should not leave your place of work without consulting with a manager except in very exceptional circumstances, when you must inform a colleague. Failure to comply with this procedure will be regarded as absence without leave.
- 2.1.3. Employees must ensure managers are informed about inability to attend work as early as possible on the first day of absence and certainly no later than the specified deadline for notification of absence. You must provide information on the general nature of your illness and, if possible, some indication of the expected duration of this illness. Your manager needs to obtain this information so that arrangements may, if necessary, be made to cover your work. If we do not hear from you, your manager will call you for an update.
- 2.1.4. If you continue to be absent beyond the initial period of time indicated to your manager, you must advise your manager of your new anticipated date to return to work. Again, this is necessary so that the manager can continue to organise the work necessary to be completed during your absence. You are responsible for ensuring that your manager is always aware whether or not you are expected at work. Failure to do so may be regarded as absence without leave.

### **2.2. Disability and Attendance Management**

The sickness policy & procedure applies to all employees whether they have a disability or not. It is not expected that because someone has a disability that they will automatically need to take time off sick. Often employees with disabilities require no time off at all. If an employee's absence, however, is attributable to a disability-related illness or the need to take sick leave because of a disability, the provisions of the Equality Act 2010 must be complied with, and advice must be taken from HR. In all cases of disability related absence reasonable adjustments need to be considered and may include higher trigger levels under the Bradford Index, adjusting hours of work, obtaining specialist equipment, etc. Contact your HR Business Partner for guidance.

Employees are encouraged to inform the Council if they know that they have a disability especially when this may affect their ability to perform their current duties. The employee and their manager can then discuss and agree what adjustments and support would be appropriate.

- 2.2.1 OHA might also state that the employee should be viewed as having a disability in accordance with the Equality Act. The OHA will in these circumstances make recommendations about the adjustments that need to be made in order for the employee to continue at work. All reasonable adjustments will be considered but ultimately it is a management decision as to what adjustments can be made. The line manager, with support from HR, must investigate what adjustments are required and discuss these with the employee concerned in order that a joint decision can be reached.

### **2.3 Hospital Appointments**

As it is not always possible to exercise control over the time of hospital appointments, these will be allowed in working hours, if necessary. However, the appointment card/letter must be shown to your immediate Manager in advance of any time off being authorised. It is hoped that staff feel able to discuss the reason for their hospital appointment with their Manager. On rare occasions staff may feel unable to do this, if something is of an extremely personal nature, contact your HR Business Partner who will ask to see the card/letter from the hospital on the Manager's behalf. Credit will only be made for time actually spent at the hospital. Half-day or all-day attendance at hospital will be recorded as sick leave.

### **2.4 Annual leave and sickness**

Annual leave accrued whilst off sick must normally be taken before the employee's leave year ends. Should this not be possible (for example an employee is off for a full annual leave year period) then the employee will be entitled to carry forward their equivalent statutory annual leave entitlement only (for a full time worker, this is 28 days per annum including bank holidays). Please liaise with HR for further guidance.

- 2.4.1. The Council is legally unable to make any payment in lieu unless the employee leaves the organisation.
- 2.4.2. If an employee leaves the Council's employment after a period of 12 months sickness absence, we will pay you one year's statutory leave entitlement.
- 2.4.3. If you have booked a period of annual leave and are subsequently ill during this leave and seek medical attention, you will need to follow the normal sickness reporting procedures (i.e. making contact with your line manager advising them of your illness on day one, explaining what is wrong and how long you are likely to be off) for us to consider changing your time off to sickness absence, rather than annual leave. This includes any sickness that might occur whilst you are

abroad. If you seek medical attention you will be required to provide evidence of this for us to consider changing annual leave to sickness absence

## **2.5. Documentation and Certificates Required:**

- 2.5.1. For any period of absence of 7 calendar days or less, no doctor's note will be required. However, upon your return, a return to work interview will be held. Your manager will input the details of your absence into the Council's HR/Payroll system.
- 2.5.2. If your absence is longer than 7 calendar days, you must submit a medical certificate known as a "Fit Note" (still known as a "Med 3"). The Fit Note will be completed by your GP and will indicate whether you are in their view you are not fit for work or that you may be fit for work taking into account advice they provide (for example a phased return to work, amended duties, altered hours, workplace adaptations, etc.). On your return to work you will need to meet with you manager for a return to work interview and s/he will input your absence details into the Council's HR/Payroll system .
- 2.5.3. Further "Fit Notes" are required when the sickness continues and must be supplied **within two days of expiration of previous certificates**. Failure to submit timely and regular certificates may result in action being taken under the disciplinary procedure and pay being suspended. If your sickness absence is extended and you receive another Fit Note, you must contact your manager to update them of the situation and your expected return to work date.
- 2.5.4. The provision of a fit note does not prevent you from returning to work before its expiry. If you or your manager believe you are fit to return to work, with adjusted or amended duties or on a phased return, you may be asked to return to your GP to obtain their guidance on this. We may ask you to also attend an appointment with the Council's Occupational Health Advisor.
- 2.5.5. The Council reserves the right, in the most exceptional circumstances, to have individuals investigated on suspicion of abusing the sick pay scheme. If found to be the case the Council will instigate formal disciplinary action that may result in the termination of their contract of employment.
- 2.5.6. Occasionally, the Council will ask an employee to provide a "Fit Note" for all spells of sickness absence regardless of length. An example of this might be when an individual has several short spells of absence due to a variety of causes. Asking for a "Fit Note" on each occasion will ensure that the employee's GP is aware of the extent of the problem and possibly help them to identify any underlying cause. GPs will often charge to provide "Fit Notes" before a week's absence – in this case, the Council will reimburse the full cost incurred.
- 2.5.7. At the discretion of managers, "Fit Notes" may also be required for spells of sickness absence immediately adjacent to a period of annual leave.

2.5.8. Managers aren't trained medical professionals, but will sometimes need to make a layperson's assessment of an employee's fitness to attend work. If an employee attends for work showing symptoms, which suggest they could be contagious or unfit for work, managers have the right to send the employee home, on sick leave, until a medical certificate is obtained showing that the employee is fit for work.

## **2.6. Medical Referral to Occupational Health Service:**

2.6.1. You may be required to attend an appointment with the Council's Occupational Health Advisor (OHA) at any time.

2.6.2. The purpose of the referral will vary from case to case, but is likely to include:

- Seeking further information on the nature of your absence;
- Seeking advice about whether there are any unidentified underlying causes;
- Seeking advice about appropriate treatment;
- Seeking advice about reasonable adjustments or other Equality Act implications;
- Seeking advice regarding the prognosis, including the likely return to work and anticipated future attendance.

2.6.3. If you refuse to attend an appointment with the OHA it may be necessary to take a decision, which could affect your employment without knowing the full details of your case.

2.6.4. As there is a cost to the Council to refer staff to Occupational Health, it is a management decision to refer individuals and staff cannot refer themselves.

## **2.7. Stress-Related Absence:**

2.7.1. If an employee is absent due to stress-related illness, anxiety or depression, as determined on the medical certificate, it is essential that immediate action is taken. The appropriate action on receipt of such a "Fit Note" is for the line manager to notify the HR Team who will make an appointment with OHA.

2.7.2. If any work-related issue is felt to be contributing to ill-health it is essential that this is identified so that appropriate and reasonable action can be taken swiftly.

2.7.3. Managers have a duty of care to employees to take reasonable steps to avoid putting them in situations that might impair their health, and a responsibility to the Council to protect them from litigation.

## **INFORMAL MANAGEMENT ACTION**

### **2.8. Return to Work:**

- 2.8.1. It is the employee's responsibility to notify their manager of their intention to return to work. This should be done at the earliest opportunity. All certificated absence requires a Fit Note (Med 3) with a return to work date.
- 2.8.2. Return to work medical referrals can be carried out by the OHA at the request of their supervisor/line manager.
- 2.8.3. A return to work medical is appropriate where:
  - The employee has a recurring condition that is impacting on attendance at work;
  - There is concern about an employee's capability to do their job;
  - Where the manager and/or employee requires advice about the suitability of working arrangements; or
  - Where there is concern that work may be a causative factor in illness.
- 2.9. The decision to refer staff to OHA rests with line management in accordance with the rules set out in this document. In these circumstances your HR Business Partner should be informed and consulted to advise you and ensure that the correct procedure is followed.

### **2.10. Return To Work Discussions (Informal):**

- 2.10.1. Following each absence from work due to sickness the employee must be interviewed by the supervisor/line manager.
- 2.10.2. These discussions are an essential part of the procedure, they do not need to be lengthy, but should be conducted fairly and consistently and follow a basic four-part structure. (See also Annex 1)

### **2.11. THE FORMAL PROCESS:**

- 2.11.1. Although there are some areas where dealing with frequent absence and long-term absence will be similar (and in some cases your concerns will be triggered by an individual whose absence from work falls into both categories) there are some significant differences.
- 2.11.2.
- 2.11.3. These processes aim to provide general guidance for managers, but because sickness absence rarely follows a predictable pattern managers need to exercise some discretion about the actual application of their approach. Similarly, managers may have concerns about the attendance of staff whose pattern of absence over a period of time, including both long and short-term

spells. In these cases, the approach taken by a manager will normally follow a similar process to that used for dealing with frequent absence.

## **2.12. Exercising discretion in sickness absence cases**

- 2.12.1. Managers might find it appropriate to exercise discretion when dealing with medium to long spells of sickness, recognising the importance of treating staff fairly and consistently.
- 2.12.2. Disability related absences require reasonable adjustments and those may include higher trigger levels under the Bradford Index, etc. Contact your HR Business Partner for guidance.
- 2.12.3. Discretion may be exercised where a medium-long spell of sickness (say, two weeks to two months) pushes the Bradford Factor Index above the Council's trigger.
- 2.12.4. If previous attendance has been good – consistently below\* the Council's short-term average – and the medical prognosis is positive, a formal warning may not be appropriate at this stage.
- 2.12.5. Managers should still meet with staff to discuss the absence history and possibly seek further medical advice, and staff should be clear that the absence is not being disregarded completely. However, formal action may not be appropriate where high absence is clearly an isolated incident.
- 2.12.6. Accidents at work will normally be disregarded for the purpose of considering formal action.
- 2.12.7. Pregnancy related sickness will be disregarded for the purpose of formal action, although if there is cause for concern about the employees attendance, a meeting may be held to discuss the absences and how attendance can be improved.

## **2.13. DEALING WITH FREQUENT ABSENCE:**

- 2.13.1. When an employee's level of short-term absence reaches the Council's trigger level or gives their manager some other cause for concern it is appropriate to organise a formal meeting.
- 2.13.2. A summary and flowchart of the process for dealing with long-term absence can be found on the knowledge.
- 2.13.3. **Stage 1 - First formal meetings:**

The conduct of the formal meeting will follow similar lines as an informal return to work interview – fuller guidance can be found in appendix 1.

The formal meeting is attended by up to four people:

- Relevant Manager or Supervisor;
- The Employee;
- HR representative;
- The Employee's Trade Union Representative or Work Colleague, if desired.

- 2.13.4. It may be helpful to suggest a referral to the Council's OHA, particularly if there is a possibility that there could be some underlying cause for much of the sickness absence. If so, you should adjourn the meeting until after the Advisor's report has been received.
- 2.13.5. At the end of a formal meeting it is normally appropriate to formally advise the employee that their employment could be at risk unless there is a significant and sustained improvement in their attendance, and how this would be assessed. This will be a formal warning remaining on file for a total of 12 months. For this reason it is particularly important that the employee is encouraged to seek medical help if they believe the situation may be ongoing. Generally however, several spells of sickness absence may be nothing more than coincidental, and it will often be the case that the situation will improve without medical intervention.
- 2.13.6. In either event, you should inform the employee that their attendance will be closely monitored over (normally) a six-month period and that a second formal meeting will be held either at the end of that period or sooner if there is continuing cause for concern.
- 2.13.7. The main points of the discussion should be confirmed in writing within 10 working days, and sent to the employee with a copy for their Personal File.
- 2.13.8. If the employee's attendance has significantly improved during the review period, this should be discussed with them. The employee should be advised that the Council would hope to see this improvement continue, and that if there is further cause for concern within the remaining six months of the warning, further action may be taken which may include moving to stage two of this procedure or an extension to the stage one warning period. After twelve months of satisfactory attendance, the first warning will be disregarded for the purposes of this procedure.
- 2.13.9. If attendance does not improve during this period action should be taken under the second stage of this procedure.

## 2.14. Stage 2 - Second formal meetings:

- 2.14.1. If there is no improvement in the attendance of the employee, a second formal meeting should be held and attended by:
- The Senior Manager;
  - The Employee;
  - An advisor from the HR Team;
  - The Employee's Trade Union Representative or Work Colleague, if desired.
- 2.14.2. This constitutes the second stage of the procedure.
- 2.14.3. If the employee has not been referred to the OHA at an earlier stage of the procedure they may be referred at this stage, before the meeting is convened.
- 2.14.4. The structure of the second meeting should follow similar lines to the first (see Appendix 1). The main objective is to discover if there is anything that can be done to help the employee improve their attendance record.
- 2.14.5. At the end of the second meeting it is normally appropriate to formally advise the employee that their employment **will** be at risk unless there is a significant and sustained improvement in their attendance. This should be regarded as a final warning (remaining for 18 months). As before, the main points of the discussion should be confirmed in writing.
- 2.14.6. You should inform the employee that their attendance will be closely monitored over (normally) a six-month period, and that a third formal meeting will be held either at the end of that period or sooner if there is continuing cause for concern.
- 2.14.7. If the employee's attendance improves significantly during the review period this should be discussed with them. The employee should be advised that the Council would hope to see this improvement continue, and that if there is further cause for concern within the next twelve months action may be taken under stage three of this procedure. If attendance continues at an acceptable level for a total of eighteen months beyond the final warning, this warning will be disregarded for the purposes of this procedure.
- 2.14.8. However, if attendance gives further cause for concern during this period action should be taken under the third stage of this procedure.

## **2.15. Stage 3 - Formal hearing:**

- 2.15.1. If there is no significant and sustained improvement a formal hearing should be convened. The hearing should be chaired by a Senior Manager advised by a member of the HR Team.
- 2.15.2. The other individuals attending this meeting will again be the relevant Senior Manager or their deputy; an advisor from the HR Team; the employee, and their Trade Union Representative or Work Colleague.
- 2.15.3. The manager and his/her advisor will describe the employee's absence history and what action has been taken to date under this procedure, and recommend what action they believe is now appropriate. At this stage, this is likely to be dismissal.
- 2.15.4. The employee and their advisor will be able to present their own case, and challenge the manager in much the same way as a formal disciplinary hearing.

## **2.16. DEALING WITH LONG-TERM ABSENCE:**

- 2.16.1. Long-term absence is generally defined as single or related spells of absence totalling four weeks or longer.
- 2.16.2. Long-term absence causes similar problems to repeated short-term absence, particularly in terms of service provision, impact on colleagues and cost. However, it is usually easier to make arrangements to mitigate some of these effects and managers are advised to deal with long-term sickness absence consistently and fairly, balancing the needs of the service with the needs of the individual. Always seek advice from your HR Business Partner before taking action under this code.
- 2.16.3. A summary and flowchart of the process for dealing with long-term absence can be found on the knowledge.
- 2.16.4. **Maintaining contact:**

During long-term absence, it will usually be appropriate to maintain contact with individuals – you should aim to keep staff up-to-date with staff briefings and vacancy details. The frequency of this contact will depend on the individual and the circumstances of the particular case. Ideally, managers should contact absent staff (or vice versa) at least once each month.

- 2.16.5. On a more formal basis, it may also be appropriate to meet absent staff to discuss their health and other relevant matters. The necessity of these meetings will be guided by OHA. The meeting can either be on Council premises, at the employee's home or at an agreed location. These meetings must be notified in advance and agreed with the employee.

2.16.6. **Formal action:**

Initially, advice from the employee's GP (on the medical certificate) will give some guidance regarding the cause and likely duration of absence. Once the absence has exceeded four weeks, if the likely return to work date remains unclear it may be appropriate to refer the employee to the Council's Occupational Health Advisor (OHA).

2.16.7. At this stage, the key information likely to be required will include:

- any further information about the GP's diagnosis;
- advice about the likely duration of the absence;
- advice on whether there are any workplace or Equality Act implications.

2.16.8. At this point it will normally be appropriate to meet formally with the employee to discuss their absence and the outcome of the OHA referral (if any) and consider any further action (stage one under long term absence procedure):

2.16.9. Where the OHA or other medical information advises that the employee will recover in the foreseeable and not-too-distant future, there is possibly no further action to take other than to monitor the situation and review if appropriate.

2.16.10. Where the OHA advises or other medical information indicates that the employee is likely to recover sufficiently to be able to return to work, but the anticipated date is unknown, the employee should be advised that although it isn't possible to hold their job open indefinitely, their case will be monitored and reviewed at an appropriate future date. (In rare cases, the OHA will advise at an early stage that there is no prospect of a return to work within the foreseeable future and it may be appropriate at that stage to consider dismissal.)

2.16.11. For guidance, it may be sensible to hold this review at least one month prior to the time the employee's entitlement to full pay expires. If the likely return to work date is no clearer at this second formal meeting (stage two of long term absence procedure), the employee should be reminded that their job cannot be held open indefinitely and a further appropriate review period set (normally, no longer than three months).

2.16.12. If the anticipated return to work date is still unknown after the second review period, it may be necessary to consider terminating their employment on the grounds of capability. For this to be considered, a stage 3 long term absence hearing will be convened.

2.16.13. Before any stage 3 hearing, Occupational Health advice must be sought.

- 2.16.14. Where the OHA advises that the employee is incapable of continuing his/her duties yet considered fit for other or light duties, redeployment and retraining must be considered in consultation with the HR Manager:
- 2.16.15. If the medical advice is that the person is defined as disabled under the definition under the Equality Act then the employer must make every effort to make reasonable adjustment to the work or workplace and to consider redeployment. These options should be considered in consultation with the OHA. To refuse to deploy into a suitable alternative vacancy (should one exist) is a matter which an Employment Tribunal would examine very carefully when considering the Council's "reasonableness" in a particular situation. It should be stressed that managers cannot be expected to "create" vacancies where one does not exist. Before any redeployment is formally offered the views of the OHA should be sought.
- 2.16.16. If after every effort has been made and reasonable adjustments or suitable alternative employment has not been found it may be necessary to consider dismissal on grounds of capability.

Consideration for ill health retirement assessment is ultimately at the discretion of the Council. This process requires two Council appointed independent occupational health professionals to agree. If the employee is a member of the Local Government Pension Scheme details of the appropriate benefits should be obtained from the Pension Scheme Administrators and discussed with the employee. The Local Government Pension Scheme Regulations are complex and subject to change, so seek advice from HR on all cases involving these matters.

- 2.16.17. Staff do not have the right to remain in employment until the expiry of their entitlement to sick pay, and it may be appropriate and necessary to reach a dismissal decision before this time. In any case involving dismissing an employee, this would be discussed with them following an invite, in writing, to a meeting in advance – and they should be advised that they have the right of appeal in line with the Council's appeals procedure.
- 2.16.18. Although these meetings will essentially be of a formal nature, and an employee is entitled to be accompanied by a Trade Union representative or a colleague as a friend, the structure of the meeting will normally be less prescribed than for a formal meeting to consider short-term absence. However, as with short-term absence the manager will need to balance the desire to be sympathetic and supportive of the employee with the need to maintain their service and act with fairness and consistency.
- 2.16.19. It is important that individuals are dealt with openly, that discussions should include the individual, and that all information relating to entitlements and management action should be conveyed. It is only through open discussion and regular review of the position of individuals on long term sick leave that

managers can discharge their welfare responsibilities to individuals and their management responsibilities to the Council.

## **2.17. APPEALS**

- 2.17.1. An appeal right exists at all stages of the formal procedure, in line with the Council's Generic Appeals Policy. There will not be a delay in implementing management decisions pending the appeal, but they may be subsequently amended as a result of the appeal hearing.

## Appendix 1

# First formal meeting – stage one

---

### **PRIOR TO INTERVIEW**

The employee should be given at least 48 hours' notice, in writing, to attend this meeting.

The letter should contain copy of absence history & sickness absence procedure. Meeting room should be private.

A union representative or colleague can attend this meeting.

Arrange for a copy of the absence history to be available for interview.

### **SUGGESTED STAGES OF THE MEETING**

#### **1) Introduction:**

- Introduce all present (normally, the manager, HR Business Partner, the employee and their representative);
- Remind the employee that the meeting is taking place as part of the Council's Sickness Absence Procedure;
- Confirm that the employee has a copy of the Sickness Absence procedure and their sickness absence record;
- Ask the employee if they accept the record is accurate.

#### **2) Outline management concerns:**

- Explain that high levels of absence cause a number of problems – in terms of cover, disruption, service provision, additional workload for colleagues and cost;
- Highlight to the employee that the reason for the absences are not in question but that the impact of their absence is;
- Invite them to comment on their recent sickness history.

#### **3) Give the employee the opportunity to respond**

- Explore the reasons for their absence – consider if there might be any underlying cause – ask the employee whether their GP is aware of the situation.
- Ask if there is anything further the Council could do to assist them in with improving their attendance (often, the only person who can improve their attendance is the employee).

- Ask the employee if they feel they might benefit from a visit to the Council's medical advisor.

(Consider adjourning at this point to consider next steps)

#### **4) Explain the next steps\*\***

- Repeat your concerns about the effect of sickness absence and the fact that the reasons for absence are not being challenged;
- Advise the employee that you are hoping to see a significant and sustained improvement (if pressed, explain that the Council would not expect to see their absence exceed the average number of days, excluding employees on long-term sick leave);
- Explain that if no such improvement is seen, their employment could be at risk;
- Explain that you will continue to carry out “the back to work interviews” and the HR Team will monitor absence figures as they do for all employees;
- Explain that you will arrange to meet again within the next six months (sooner if absence level continues) – and that if there is no significant improvement during that time it will be necessary to move to stage 2 of the Sickness Absence procedure;
- Invite the employee to make any further comments or observations;
- Our principal objective is to see the employee regularly at work; reiterate the fact that the Sickness Absence procedure is being used to assist the employee in improving their attendance - but if this is unsuccessful they are at risk of dismissal – it is important that both of you do whatever you can to improve the situation;
- Explain that you will confirm the outcome of the meeting in writing – and that they have the right of appeal if they are unhappy with your decision. All appeals must be addressed to the Head of HR and Support Services, and outline the reasons for the appeal. Letters must reach the HR Team within 10 calendar days of receiving formal (i.e. written) notification of the decision

\*\* Although cases are rarely, if ever, identical, experience suggests that the steps taken by managers when dealing with repeated short-term absence can, and generally should, be consistent. Occasionally, different or no further action will be necessary – and these cases should be discussed with the HR Business Partner while the meeting is adjourned.

Note: - Stage Two process is repeat of Stage One.

## Appendix 2

# Sickness absence hearing – stage three

---

### **PRIOR TO HEARING**

The employee should be given at least 48 hours notice, in writing, to attend this meeting.

The letter should contain copy of absence history & Sickness Absence procedure plus previous correspondence and any other evidence that will be referred to at the hearing.

Meeting room should be private.

A union representative or colleague can attend this meeting.

### **SUGGESTED STAGES OF THE MEETING**

- Chairman introduces all present and outlines the purpose of the meeting;
- Manager (and their advisor) present their case – outlining the employee's sickness absence history and previous action taken;
- Employee (and their representative) to question the manager about the details of their case;
- Panel to question the manager about the details of their case;
- Employee to present their case;
- Manager (and their advisor) to question the employee about their statement;
- Panel to question the employee about their statement;
- Manager to summarise their position;
- Employee to summarise their position;
- Meeting adjourns while panel consider what action, if any, would be appropriate;
- Parties reconvene;
- Panel advises the employee of their decision, and advises the employee of their right of appeal (if appropriate).

## Appendix 3

# Return to Work Discussions (Informal)

---

Enquire about their general health. If a medical referral has not been made, you may need to make a layperson's assessment as to whether the person is fit for work. If you have any concerns about an employee's fitness for work following sickness absence you can require an appropriate medical certificate (see also 2.5.6).

When a staff member returns to work from a period of absence, you should explore the reason for absence. In the great majority of cases, you will not challenge the reasons given for the absence but it is important that you are aware of the situation. For all disability related absences discuss if there is a need for any reasonable adjustments under the Equality Act. Contact your HR Business Partner for guidance.

You need to satisfy yourself:

- that the employee is fit to resume work;
- whether the absence is work related;
- if preventative measures have been taken to ensure that it does not occur again;
- whether arrangements may be needed to facilitate return.

It is important that you demonstrate care and concern during this stage of the interview. This is best demonstrated by active listening. Listen carefully and fully to what the staff member has to say and respond appropriately.

The exact questions you might want to ask the employee will very much depend on the individual circumstances of each case, but, for example, you might want to ask:

- *How are you feeling?*
- *What do you think caused...?*
- *Did you visit your GP or pharmacist?*
- *Do you feel completely better?*
- *Do you need any help from us to get back up to speed?*

If an employee has had a period (or periods) of absence that are related to pregnancy, this should be discussed in detail with them to ensure that they are fit to fully carry out their role. You should also determine whether there are any adjustments that the Council can make to improve their attendance. If their pregnancy related absences have triggered the Bradford Index, this should also be discussed with them. Please speak to your HR Business Partner for further advice if required.

It may be appropriate to discuss certain details with appropriate senior managers and the HR Team. Otherwise, the information you obtain must be treated confidentially.

**The advice in the following paragraphs will usually be for absence spells/levels beginning to give cause for concern, so not every return to work interview will require this level of intervention.**

### **Consequences and observations**

You may also want to explain that every member of staff has a responsibility to come to work when required. We can only maintain the appropriate level of service if the workforce attends fully.

You should remind staff of the necessity for full attendance wherever possible and you should point out actions that you or other colleagues have had to take as a result of their non-attendance.

Using the sickness absence records, available from the HR Team, you should bring to the staff member's attention the facts regarding their attendance during the previous 12 months. This might include observations as to the number of days being taken off.

It is appropriate to make observations or ask questions if non-attendance seems to form a pattern. If appropriate, it should be pointed out that the Council takes non-attendance seriously and that it could lead to action being taken under the disciplinary or sickness absence procedures. You should use this opportunity to explore ways in which you can help a staff member to attend as required by the Council and discuss what they can do to better manage their own attendance. If the non-attendance is due to reasons not associated with medical conditions, other options should be explored such as flexible working. The employee may need to be reminded that sickness absence should not be used to deal with other circumstances.

### **Completion of employee's record**

After this discussion has taken place, you can update the HR/Payroll system with any pertinent details of the return to work discussion. To ensure accurate sick pay is applied to the individual, please ensure that the correct last day of absence date is input into the system. Please bear in mind that this needs to be the calendar day before the day they returned to work, even if this is a Sunday.

### **Future action**

Before terminating the interview, you should confirm that the employee understands what you have said, what is required of them in the future and what action the Council may take next time they are absent from work.

These interviews are essentially informal in nature but if a problem persists in regard to attendance then the procedure can be escalated to the formal process (see para 2.11).

If the employee's attendance record hits the Council's trigger levels the type of return to work interview will change, and sickness absence in these cases will normally be dealt with formally.

The outcome of formal and informal interviews are also quite different. The formal interview is likely to lead to a formal warning about the consequence of further absence, and may eventually lead to the termination of employment.