



Managing Attendance Policy



Human Resources Division
Corporate Services

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1. Introduction

The Council values the contribution made by its employees and recognises that high levels of attendance at work by employees is a vital factor in the efficient operation of its services. High levels of attendance at work will contribute to, and provide positive assistance in the planning and provision of quality services and the achievement of high morale among employees. The policy outlines the Council support and commitment to its responsibilities under the Equality Act 2010. This policy should be read in conjunction with the associated guidance note on managing attendance.

2. Scope

This policy is applicable to all employees, irrespective of age, sex, ethnicity, race, marital or civil partnership status, sexual orientation, religion or belief, pregnancy or maternity or gender reassignment. The policy does not apply to teachers for whom a separate, comparable policy exists.

3. Principles

This policy is founded on the following principles: -

- (i) Managing attendance will have a positive effect on service provision.
- (ii) Irrespective of the genuineness of the absence(s) there may come a point at which the Council has to terminate an employee's contract of employment if the length or frequency of absences becomes unsustainable.
- (iii) Best results will be achieved where management, employees and trade unions are agreed on the need for a framework to deal with managing attendance.
- (iv) The manager's role is critical to managing attendance levels.
- (v) Clear, equitable, and consistent standards and procedures will be applied. While recognising the individual circumstances of each case, managers will exercise careful consideration to achieve the correct balance between supporting employees and taking action, including disciplinary action, where appropriate. The application of the Managing Attendance Policy will be monitored by Services using ongoing sickness absence audits.
- (vi) The Council will promote a healthy lifestyle by providing information to employees and giving access to associated initiatives which aim to encourage healthy living.

4. Responsibilities

4.1 Employee's responsibilities

- (i) To meet their contractual obligation to attend work.
- (ii) To look after their general health and wellbeing and seek medical or other support where necessary in order to maximise their attendance at work.

- (iii) To comply with all aspects of this policy including attendance at absence management meetings as required and to accept and comply with appropriate medical and other advice and support measures.
- (iv) To comply with the Council's notification and certification procedures and advise their line manager verbally of their absence from work. If the line manager is unavailable, contact should be made with another nominated manager. This contact must be made by the employee on the first day of absence within an hour of normal starting time or within such other timescale which may be specified by the Service. Only in exceptional circumstances will contact be made by another on the employee's behalf. Further contact must be made on the fourth and seventh calendar day of absence (or next available working day) and, thereafter, on a weekly basis. However, there may be alternative arrangements which will be determined by the manager / supervisor. The use of text messages and e-mail messages is not acceptable for notification purposes.
- (v) To provide a self-certificate for the first seven calendar days of absence and to ensure that any continuing sickness absence (beyond seven calendar days) is covered by fit notes.
- (vi) To ensure that fit notes cover all periods of sickness absences and are forwarded timeously to their line managers, as failure to do so will affect sick pay and may result in disciplinary action being taken.
- (vii) To maintain regular contact during the absence (either face to face or by telephone) with their line manager and be aware of who to contact in the absence of the line manager.
- (viii) To promptly make their line manager, or other designated person, aware if they consider their sickness absence to be work related and to be prepared to discuss and to co-operate with their manager (or other designated person) in any future action identified as a result of these discussions.
- (ix) To attend all meetings convened or arranged by the Council to manage their absence appropriately. This will include but is not exclusive to:
 - Contact meetings
 - Case conferences
 - Medical/specialist practitioner appointments
 - Return to work interviews
 - Formal absence review meetings
 - Capability meetings

Such meetings (with the exception of medical appointments) will normally be held at the employee's place of work or any other suitable Council establishment unless a current, professional medical opinion is provided which indicates that attendance at a work venue is not possible. In such instances, other suitable arrangements may be made.

4.2 **Manager's responsibilities**

- (i) To manage attendance and be responsible for applying the terms of this policy fairly and consistently, taking account of individual circumstances.
- (ii) To treat information regarding an employee's health in a sensitive and confidential manner.
- (iii) To advise employees of the importance of high attendance levels at work and ensure they are aware of this policy and their responsibilities including those detailed in paragraph 4.1.
- (iv) To be responsible for and aware of information provided by monitoring systems, including levels of sickness absence within their team, identifying appropriate management action and/or medical interventions, as required.
- (v) To advise employees who they should contact to report a sickness absence and the timescales within which this contact should be made.
- (vi) To have an up to date understanding of the Council's current employment policies and available support measures with the aim of assisting employees to maximise their attendance at work. The Council's employment policies can be accessed on the Council's intranet site.
- (vii) To take steps to deal with each absence case at the earliest opportunity; ensuring the employee maintains regular contact and identifying and demonstrating, in writing, the provision of appropriate support for employees. Managers should note that the use of text messages and e-mail messages are not acceptable methods of keeping in touch with employees.
- (viii) To have an up to date understanding of their responsibilities in terms of considering "reasonable adjustments" where an employee has a disability in line with the Disability Discrimination Act 1995, as amended, and with the Equality Act 2010.
- (ix) To ensure medical and specialist advice is requested in line with the policy where appropriate, and to emphasise the requirement of employees attending a medical assessment. Managers are responsible for taking appropriate action where an employee fails to attend or cancels agreed medical appointments.
- (x) To conduct return to work interviews, formal absence review meetings and other absence management meetings.
- (xi) To consider all available options to enable an employee to return to work or minimise sickness absence. This will include, but is not restricted to, consideration of all available assistance such as phased return, part time working, re-training, and/or suitable alternative duties, as appropriate.
- (xii) To advise employees of the potential for termination of employment on the grounds of capability, ill health or conduct if there is no significant improvement in the attendance levels and to deal with these cases in line with the Council's policies, procedures, conditions of service, employment legislation and ACAS and other statutory guidance.

- (xiii) To manage health and safety in the workplace with the aim of minimising sickness absence and to take appropriate action, where necessary, to address any concerns.
- (xiv) To participate in training related to managing sickness absence

4.3 The Role of Human Resources

- (i) To provide advice to managers on the application of the policy.
- (ii) To participate in meetings related to the formal stages of the managing attendance process (as appropriate).
- (iii) To monitor and review the application and implementation of the Managing Attendance policy.
- (iv) To report on levels of sickness absence, leading initiatives to reduce sickness absence across the organisation.

5.0 Contact with employees

- 5.1 To ensure effective monitoring of sickness absence, it is critical that arrangements for regular, early and face to face contact are considered at the earliest opportunity. Such meetings will normally be held at the employee's place of work or any other suitable Council establishment unless a current, professional medical opinion is provided which indicates that attendance at a work venue is not possible. In such instances, other suitable arrangements may be made. Details of the initial (and subsequent contact) with the employee should be recorded on the Sickness Absence Recording Form (Appendix 1 of the Managing Attendance Guidance Note).

5.2 Return to work interviews

Return to work interviews are used to welcome the employee back to the workplace, provide an opportunity to discuss the cause of the absence, ensure the employee is fit to return and identify and address any problem that may be causing or contributing to the absence.

A return to work interview must be conducted after each period of sickness absence for every employee, every time (irrespective of the reason for sickness absence). It must take place on the first day that the employee returns from being off sick, or as near as possible to that date.

There may be occasions where it is not possible to undertake a face to face return to work interview. In such exceptional circumstances, the line manager must conduct a return to work interview by telephone, with a date set for the manager and employee to sign off the return to work paperwork within a reasonable timescale.

For more information on Return to Work interviews, please see the associated Managing Attendance Guidance Note.

5.3 **Absence triggers for formal absence review meetings**

The manager must hold a formal absence review meeting with the employee when the sickness absence record falls into one of the following categories:

- 3 periods of sickness absence in a rolling 12 month cycle,
- 8 days or more cumulative absence* in a rolling 12 month cycle, or
- A continuous absence of 2 working weeks.

*Cumulative absence refers to the total number of days absent accrued over more than one period of absence i.e. not one absence of 8 days

Please note that a period of absence is defined as a minimum of one working day at any one time.

The manager must advise employees that they can if they so wish be accompanied or represented at such review meetings by a work colleague or trade union representative. The manager must also record the meeting and confirm the outcome of the meeting in writing to the employee.

5.4 **Phased return to work**

A phased return to work may be offered to employees who have been absent from work for an extended period of time (normally more than 4 working weeks). Each case will be considered on its own merits and where appropriate, will be subject to advice from the occupational health physician/adviser. The manager should discuss the proposed pattern with the employee before he/she returns to work and confirm this agreement in writing.

6. Occupational health service and referral procedure

6.1 The Council's occupational health provider does not manage absence for the Council. They provide a medical advisory service which provides managers with information to allow them to make informed decisions based on policy and in light of any medical advice received, including medical health reports.

6.2 When an employee is referred for examination will depend upon the particular circumstances of the case, but will normally occur in the following circumstances:

- After a continuous absence of 4 working weeks or earlier if the manager deems it appropriate to do so
- Where an absence is attributable to stress, irrespective of the duration or likely duration of the absence. The manager must meet the employee in the first instance to gather more information on the nature of the stress. Where it is not possible to meet, contact must otherwise be made with the employee, with a follow up face to face meeting arranged as soon as possible thereafter. Where the stress is identified as being work related, the Council's stress tool must be used to identify the potential stressors. The stress risk assessment tools provide an introductory risk assessment of potential organisational stressors and can be used to provide a focus for manager led discussion with an employee who is

reporting work related stress. It may be possible for work-related stress to be resolved by the manager without the need for occupational health input.

For further information on the role of occupational health and the referral process, please refer to the associated Managing Attendance Guidance Note and Frequently Asked Questions for Managers.

7.0 Categories of absence

Sickness absence falls into two distinct categories:

- Attributable to an underlying medical condition
- Not attributable to an underlying medical condition.

There is a different process to manage absences within each category, although it is essential that the principles and processes applied are fair, consistent and equitable in both categories.

7.1 Underlying medical condition

7.1.1 Cases in this category involve long term (continuous absence of 4 working weeks) or substantial intermittent absences which, on the basis of medical certification or information, are the result of an underlying medical condition. Notwithstanding the underlying medical condition, managers need to manage these cases.

7.1.2 Managers must deal with these cases at the earliest stage possible and continue to review them regularly. All absence management meetings must be carried out in a sensitive manner. Meetings should be arranged at appropriate regular intervals to reflect the particular circumstances of the case, and must be convened after every occupational health appointment. Managers must obtain full and up-to-date medical advice, where appropriate. At these meetings, managers should consider the following points. Some or all of these points may also have been discussed at an earlier stage in the managing attendance process:

- Pattern of absences (if applicable)
- Monitoring periods,
- Likelihood and date of return to their current post or, their current post with reasonable adjustments; on reduced hours; to a different post if appropriate and if all other options have been exhausted ; all other potential outcomes /options,
- The latest occupational health report and advice provided by the occupational health physician/adviser. This may include consideration of redeployment/ ill health retiral, if applicable, where other alternatives have been exhausted.

7.1.3 The manager must provide written confirmation to the employee of the points discussed at each meeting. This written confirmation must include details of any action to be taken by the manager and/or employee.

7.1.4 Employees must be advised at the earliest possible stage in the process that high levels of sickness absence cannot continue to be sustained and may result in termination of employment. However, all reasonable efforts will be made to sustain the employee's attendance at work and enable return to work.

7.2 Capability Meetings

7.2.1 Capability meeting – level 1

If the absence (long term/substantial intermittent absence) is causing concern in terms of sustainability, then the manager, after consulting an officer within their Human Resources team, should set up a 'Capability Meeting – level 1'. The employee has the right to have a trade union representative, work colleague or other appropriate person in attendance to represent or support them.

At this meeting the manager must explain that the employee's absence is causing concern and cannot be sustained indefinitely. The purpose of this meeting is to discuss:

- the improvement required
- any support mechanisms that may be required to achieve the improvement
- the timescale for improvement
- the consequences of not achieving this

The employee should be advised therefore that their absence will be reviewed over a set period of time which will be determined by the manager. It is the responsibility of the manager to explain that if their attendance does not improve/or they are unable to return to work, then the ultimate outcome may be termination of employment on capability grounds. The employee must be advised that a decision will be taken at the next capability meeting.

7.2.2 Capability meeting – level 2

If the employee is still unable to provide a suitable date to return to work, or fails to maintain an acceptable level of attendance by the end of the review period i.e. if the level of absence can no longer be sustained, then the manager will arrange to meet with the individual at a Capability Meeting – level 2. An HR representative must be present at this meeting. The manager must have a recent and appropriate occupational health report so that this can be discussed at the meeting, along with the employee's views on their continued absence. The employee has the right to have a trade union representative, work colleague or other appropriate person in attendance to represent or support them.

If no return to work date is identified or if the level of absence cannot continue to be sustained, then the employee must be advised that their employment will be terminated on capability grounds with appropriate payment in lieu of notice.

In all cases, every effort will be made to identify reasonable adjustments or provide other appropriate support to prevent this ultimate decision.

7.2.3 Ill health retiral

Ill health retiral may apply to employees who are members of the Local Government Pension Scheme. The assessment for ill health retiral is based on current medical knowledge and lies with the occupational health physician. Ill health retiral may involve the immediate, and in many cases, enhanced payment of pension and lump sum.

Employees have the right to appeal a decision made not to award ill health benefits. This appeal should be submitted to the Head of Human Resources. Further information on ill health retiral (and the outlined appeal process) can be accessed in the associated Managing Attendance Guidance Note.

7.2.4 Right of Appeal

An employee who is dismissed from their employment with the Council on the grounds of capability/ ill health has a right of appeal initially at Service level. The employee must lodge such an appeal with the Executive Director of the relevant Service (or other nominated manager) within 14 days of the date of dismissal. Thereafter, within 14 days of notification of the outcome of the appeal, a further right of appeal is available to the Policy and Resources (Human Resources Appeals) Sub-Committee by submitting such an appeal to the Head of Human Resources.

7.3 No underlying medical condition

- 7.3.1 This applies where an employee has incurred a number of absences, which are not related to an underlying medical condition. Managers should be aware that, even where they may be aware of an underlying medical condition, a series of absences unrelated to that condition, should also be managed in accordance with the following process. The fact that such absence may be covered by fit notes does not detract from the manager's responsibility to deal with unacceptable absence levels.
- 7.3.2 In such instances, a proactive approach, at an early stage, from managers can often contribute to an improvement in attendance in the long term and enhance positive working relationships.
- 7.3.3 The appropriate action to be taken will be dependent upon the circumstances of the individual case in question and due attention will be paid to occupational health advice, if relevant. Managers must have conducted a formal absence review meeting prior to initiating formal disciplinary action, with the outcome followed up in writing.
- 7.3.4 Taking disciplinary action should not prevent or dissuade managers from considering other support measures such as training, redeployment, counselling, medical interventions etc.

8.0 Disciplinary action linked to sickness absence

- 8.1 It should be noted that there may be different reasons relating to absence that may result in disciplinary action being taken against an employee:
- Unacceptable absence levels where the resultant absenteeism has reached the point where the level of absence can no longer be sustained provided the illnesses are not normally linked to an underlying medical condition. The appropriate procedure for dealing with such cases is the Council's Disciplinary Procedure.
 - Conduct issues which may include absence related issues e.g. the employee failing to comply with the Council's notification and certification procedures; or where the employee has deliberately or negligently put him or herself at risk of injury or ill health.

- 8.2 The employee must be fully aware that the potential ultimate outcome of failing to achieve an acceptable attendance level is dismissal.

9.0 Payment for sickness absence

Payment for sickness absence is detailed in the Council's scheme of pay and conditions of service. However, there are circumstances where sick pay may be withheld such as where employees are absent during the currency period of a disciplinary warning for absence or if they fail to comply with the notification and certification procedures which may also render them subject to disciplinary action.

Payment for sickness absence may be withdrawn where, following full consideration of the circumstances of the case, it is considered that the employee has contributed to the length/frequency of their absence(s) by engaging in conduct which has caused the absence or prevented recovery and return to work.

It should be noted that an individual's employment may be terminated before sick pay entitlement is exhausted. Equally, an individual's employment will not automatically be terminated on exhaustion of sick pay entitlement.

Appendix One - Disability Discrimination / Equality Act 2010

The Equality Act 2010 has amended and replaces almost all of the Disability Discrimination Act 1995 and defines a disability for this purpose as “A physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities”. The legislation creates a duty on employers to make “reasonable adjustments” and managers must make every reasonable attempt to retain a disabled employee in employment.

Managers must continue to take such steps as are reasonable to manage the attendance of disabled employees. It is important to consider an employee’s disability related sickness absence. This includes identifying at the earliest opportunity any necessary support and assistance to be provided to disabled employees to ensure all reasonable adjustments are considered and that appropriate and relevant action is taken. These considerations are an integral part of the managing attendance process. They must take place at all stages of the process as an employee’s medical condition/disability may change over time and this may impact on their ability to carry out all or some of their duties.

In some cases, an employee may be unable to undertake the full duties of their post due to health related issues which may be considered as a disability under the terms of the Equality Act 2010. In such circumstances, there is a duty to make reasonable adjustments in an effort to retain a disabled person in employment. Some examples of these may be:

- making adjustments to premises, buying or modifying equipment
- allocating some of the employee’s duties to another employee
- redeploying the individual
- altering working hours
- allowing time off during working hours for rehabilitation, assessment or treatment
- providing training
- modifying procedures for testing/assessment during training
- providing a reader or interpreter
- extending the payment of occupational sick pay – but only in exceptional circumstances.

However, it should be borne in mind that if, after all attempts to make reasonable adjustments have been made, the employee is still unable to return to work, or to maintain an acceptable level of attendance, then their employment may be terminated on capability grounds with appropriate payments in lieu of notice.