**MANAGING SICKNESS ABSENCE**

**PROCEDURE**

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1. **Introduction**

1.1 This procedure will be used in managing sickness absence in association with the Managing Sickness Absence Policy.

1.2 The point at which a manager will need to look further into an employee’s absence level is based on individual circumstances. The return to work meeting is seen as an essential part of the managing attendance process and must be held after each period of absence.

1.3 Managers and employees have a responsibility to communicate openly and honestly about absence. Where there is a cause for concern, appropriate action can be taken at the earliest opportunity. In exceptional circumstances, this may only be after a brief absence, where there is a likelihood of further absence and/or input from Occupational Health is sought.

1.4 Managers will regularly review absence levels and the effect it has on their teams. It is important that during any period of absence the manager is not only looking for means to support the individual concerned but also the team members who are coping with the absence.

1.5 Unauthorised or covert audio or audio-visual recording of any meeting or interview held under this procedure is not permitted and will not be admissible as evidence in this procedure; please note that these types of covert recordings may in themselves be regarded as a disciplinary offence. Employees should also be aware that covert recording of any individual, including those working for or on behalf of the Council is governed by legislation and may be considered unlawful.

1.6 The council will treat personal data collected during the absence management process in accordance with the **workforce data protection policy**. Information about how an employee's data is used and the basis for processing their data will be provided in the council's **workforce privacy notice**.

## **1.2 Cases of ill health not involving absence**

1.2.1 There may be cases where an employee has a health problem which adversely affects performance but which does not manifest itself through sickness absence. Examples of this may be mental health affecting behaviour, concentration, judgement (this does not have to be clinically well recognised) etc, or a physical condition which is not sufficient to cause absence but which hampers performance.

1.2.2 Managers will need to closely monitor such situations to protect both the employee and the Council. The procedures detailed here should be used for progressing such cases in the same way as if the problems were being caused by absence, whilst recognising the different nature of the basis of the issues. Please refer to the Managing Sickness Absence Toolkit for further information on stress and mental health.

1. **Reporting Sickness Absence**

Employees have a responsibility to inform their managers if they are off sick on the first day of absence by following the reporting procedures below. Employees must report sickness absence by following these steps, unless requested otherwise by your manager:

|  |  |
| --- | --- |
| First day of absence | * Contact your line-manager to report your absence, as near to your usual starting time as possible but no later than one hour after. You should give the nature and probable duration of your absence. A timescale for contact regarding updates on your health status must be agreed with your line manager. * Always report your absence yourself rather than asking a friend or relative to do it, unless there is a good reason, which must be explained to your line-manager. * If your line-manager is not available, leave a message stating that you are sick and either ring back later the same day or leave your telephone number so that your manager can call you back. Details about your sickness should not be left with colleagues. * You are permitted to send an email or electronic messages (subject to management agreement); however, a telephone follow-up call will be expected within 90 minutes of the email. |
| 4th calendar day | * You must contact your line manager with an update and advise (if practicable) when you are likely to be fit to return to work. |
| 8th calendar day  (or earlier if requested) | * You must contact your line manager with an update You must obtain a fit note from your doctor covering your absence from the first day of absence, and send it to your line manager. Nurses, occupational therapists, pharmacists and physiotherapists, are able to issue fit notes as long as they have conducted an assessment of a patient's fitness for work * Failure to provide a fit note may result in loss of pay |
| Absence of longer  than 8 days | * You must contact your line manager at least once a week with an update on your health and to indicate when you expect to return to work, unless you have agreed specific contact arrangements with them, depending on the nature of your sickness. |

# **3. Return to Work Discussion and Day to Day Management (informal stage)**

3.1 Managers must have a return to work discussion with their staff as soon as possible following their return from any spell of sickness absence. This may take the form of an informal discussion or be a more structured meeting, depending on individual circumstances. If there is concern about the pattern of absence or health, this should be raised with the employee at the earliest opportunity. Managers must record the return to work discussion on My Resources to ensure that a record is kept to assist further monitoring and review.

The return to work conversation may include any of the following:

* Update and review their sick absence record as required;
* Ensure the absence is self-certified, or that the employee submits medical certificate(s);
* Discuss any health or support issues;
* Update and/or discuss any work issues;
* Consider whether further (informal or formal) action is needed (such as a case conference or an attendance review meeting), and inform the employee accordingly;
* Consider whether or not to refer the case to Occupational Health, particularly where stress or depression is given as a reason for sickness absence of more than 7 days;
* Consider whether any reasonable adjustments need to be put in place and take all reasonable steps to find out whether the employee has a disability

3.2 Where short-term intermittent absence is a concern, managers may require employees to produce a fit note for each period of absence. Reasonable costs incurred by the employee for doing so will be reimbursed.

3.3 Any absences will count for the purpose of determining whether a sickness trigger has been reached.

3.4 In recognising the Council’s duty of care to employees, managers are expected to address concerns as soon as they arise. Informal reviews and early conversations with employees by line managers and referral to Occupational Health can all be undertaken to help address concerns, before formal action is considered.

3.5 Managers should seriously consider any medical advice they have been given before making decisions. ***Whilst decisions are taken in light of medical advice, the decisions themselves are management responsibilities, not medical ones.***

3.6 If at any stage, medical opinion indicates that the employee can no longer carry out their current duties or will not be able to return to work or sustain regular attendance within a reasonable period, the matter would be referred to the final stage of this procedure. This includes the limited circumstances in which Occupational Health may recommend early retirement on the grounds of ill health. Please refer to the ill health retirement procedure in the Managing Sickness Absence Toolkit.

## **3.7 Occupational Health Referral**

The purpose of a referral is to establish the extent to which an employee’s ill health is impacting on their ability to work and/or to seek advice on reasonable workplace adjustments. If it is likely that the Equality Act 2010 (Disability Discrimination) applies it is essential to consider adjustments and implement reasonable ones where necessary. In many cases the individual will be aware of adjustments that are appropriate to their condition and they should asked accordingly. A referral is made only in appropriate circumstances. This could be if:

* The absence is related to ongoing physical health or mental health issues, and it may be necessary to obtain medical advice as to the short-term or long-term capabilities of the employee;
* There is uncertainty over what reasonable adjustments and/or supports that may be appropriate;
* The employee is being considered for dismissal.

If it is decided that a referral is needed, the manager will make arrangements.

## **3.8 Pregnancy Related Absence**

3.8.1 Managers should be particularly aware of the need to comply with the duty of care towards all pregnant employees. Pregnancy related absences during the “protected period” shall not contribute towards the sickness absence management procedure leading towards formal cautions or dismissal. The ‘protected period’ starts when the pregnancy begins, and ends when the employee returns to work or when their additional maternity leave ends (whichever is the earlier).

3.8.2 Managers must meet with a pregnant employee, if a trigger is reached to discuss their health and well-being and offer any assistance to improve attendance. This may include referral to Occupational Health, completing an additional risk assessment and/or examining if adjustments should be made to working hours and responsibilities. Further guidance on this can be found in the Managing Sickness Absence Toolkit Advice can also be sought from HR Consultancy for these cases.

## **3.9 Case conference**

3.9.1 A manager has the option to consider holding a case conference before arranging a attendance review/dismissal meeting, or making a referral to Occupational Health, especially if the absence is related to stress, anxiety or depression. If the case conference establishes a need for a referral to Occupational Health, this will be arranged by the manager. The advice received from Occupational Health will be discussed as part of a review meeting.

3.9.2 It is a meeting to review circumstances, explore solutions and look at appropriate support. The meeting provides the manager with an opportunity to discuss any issues about the case. It is not a formal part of the procedure and will not result in a sanction being issued.

3.9.3 A manager will decide who to involve based on the individual circumstances and complexity of the case. Attendees could include the employee and their representative and a representative from HR Consultancy.

3.9.4 If the employee is unable to attend the case conference at their place of work, consideration should be given to find an alternative suitable location which is easily accessible to all parties.

The case conference will:

* Be chaired by the manager;
* Review the absence history of the employee and reasons for the absence;
* Review what support has been given and what is available;
* Allow the employee an opportunity to put their views forward;
* Seek to establish a way forward.

# **4 Managing Short Term Sickness Absence**

4.1 Short term sickness absence is normally frequent, recurring periods of sickness absence of a few days duration in each instance, or a continuous period of absence that hits a trigger point. The absence can be self-certificated (first seven days) or medically certificated (day eight onwards).

4.2 Where early intervention or informal actions fail to improve attendance, the manager would commence formal review of the absence with the employee as detailed below.

## **4.2 Attendance Review Meeting (formal stage)**

4.2.1 Where there is a concern over an employee’s attendance, the manager will arrange an attendance review meeting. The manager must also inform the employee of their right to be accompanied at the meeting by a Trade Union Representative, or a colleague from work. The manager would arrange to have a note taker at the meeting to record the salient points discussed.

4.2.2 The meeting is designed for the manager and employee to discuss sickness absence more fully and to obtain sufficient information to enable the manager to decide whether further action or support is necessary.

**At the meeting the manager would normally:**

* Go through the absence history giving rise to the concern (including any informal reviews or discussions that have taken place) and let the employee respond;
* Outline what support is available to the employee;
* If appropriate, set targets for improvement and a review period (e.g. 3 months);
* Take into consideration whether there are any reasonable adjustments that need to be made, particularly if the absence is disability related;
* If necessary, arrange for an Occupational Health referral to be made;

The outcome of all attendance review meetings must be confirmed in writing.

4.2.3 **Where there is no improvement**

If an employee’s attendance does not reflect the improvements at the end of review period, the manager will consider further action such as:

* Holding a case conference;
* Making a referral to Occupational Health;
* Holding a further attendance review meeting and a further period for improvement.
* Consider holding a dismissal hearing.

## **4.3 Dismissal Hearing (formal stage)**

4.3.1 The employee will be asked to attend a final attendance review when their attendance remains unsatisfactory. The panel will consist of a minimum of two, chaired by a senior manager/director and will include an HR representative to consider the facts of the case and the option of dismissal. The Chair will arrange for a note taker to record the salient points discussed.

4.3.2 The employee has the right to be accompanied by their trade union representative or colleague from work. Up to date Occupational Health advice (normally within three months) should be obtained prior to considering dismissal.

4.3.3 At the meeting the manager will:

* + Go through how the improvements expected have not been met;
  + Outline what support has been made available to the employee;
  + Take into consideration any reasonable adjustments that have been made;
  + Go through any medical opinions that have been provided;
  + Allow the employee a chance to respond.

4.3.4 The panel will then decide what the appropriate action should be. This could be:

* To adjourn the meeting to take further professional advice on medical conditions;
* To set a further review period with appropriate targets (and consider additional reasonable adjustments that are identified should be put in place.
* To dismiss the employee on the grounds of capability due to unacceptable attendance (where attendance has not improved: or where there is no prospect of improved attendance);

## **4.4 Dismissal on the grounds of Capability (formal stage)**

Where the review panel consider the level of absence is unsustainable, that sufficient opportunity to improve has been provided and adequate warning of the consequences given, the employee will be given notice of dismissal. Dismissal would not normally be undertaken without obtaining medical advice. The letter will state that the dismissal is due to capability and inform the individual of their right of appeal. The employee may be placed on the redeployment register for the duration of their notice period, if appropriate.

# **5. Managing Long Term Sickness Absence**

Long term sickness absence is where there is an absence from work due to ill health for more than 20 working days whether or not there is a known return date.

## **5.1 Early intervention**

Where an employee’s sickness absence continues past 15 days, and there is little indication of recovery or a return to work, a manager may arrange a case conference to discuss relevant issues. Where the prognosis or return date is unclear, or there is a defined physical or mental health issue, the manager should also consider making a referral to Occupational Health.

## **5.2 Attendance Review meeting (formal stage)**

5.2.1 Where an employee is away long-term, the manager will arrange a review meeting. The meeting allows the manager to remain in contact with the employee, and to discuss and receive more information about the absence.

5.2.2 The meeting will be held by the manager accompanied by a representative from HR Consultancy, with the employee and their trade union representative (or a work colleague).

5.2.3 The manager will arrange a note taker to attend the meeting to record the salient points. At this meeting, the manager will identify an appropriate way forward. If a referral to Occupational Health has been made, the manager will take into account the recommendations of their report and views of the employee.

5.2.4 The meeting will:

* Provide an opportunity to discuss the outcome of referral report;
* Highlight support available;
* Explore the possibilities of workplace adjustments and associated timescales ;
* Explore reasonable job restructuring possibilities;
* Look at phased returns where appropriate;
* Set out further review periods as necessary with appropriate targets;

The outcome of all attendance review meetings must be confirmed in writing.

5.2.5 If sickness continues, and there is little likelihood of a return to work within a reasonable timescale (normally within three to six months from the original date of the absence), managers may undertake subsequent review meetings to manage the situation, or consider arranging a dismissal hearing.

5.2.6 If there are any changes in circumstances from the first Occupational Health report, the manager may decide that a further referral is required.

## **5.3 Dismissal Hearing (formal stage)**

5.3.1 The employee will be asked to attend a final attendance review when their attendance remains unsatisfactory. The panel will consist of a minimum of two, chaired by a senior manager/director and will include an HR representative to consider a recommendation of dismissal. The Chair will arrange for a note taker to record the salient points discussed.

5.3.2 The employee has the right to be accompanied by their trade union representative or colleague from work. Up to date Occupational Health advice (normally within three months) should be obtained prior to considering dismissal.

5.3.3 At the meeting the panel will consider:

* Any actions that can be taken to assist an employee in continuing employment;
* Whether employment can continue in the light of incapacity; if it can, agree an action plan;
* The likelihood of a return to work within a reasonable timescale (e.g., within three to six months from the original date of the absence);
* Whether retirement on medical grounds, is applicable and recommended by Occupational Health.
* To dismiss the employee on the grounds of capability due to unacceptable attendance (where attendance has not improved: or where there is no prospect of improved attendance).

Please refer to the Ill Health Retirement process in the Managing Sickness Absence Toolkit if retirement on medical grounds may be under consideration.

## **5.4 Dismissal on the Grounds of Capability (formal stage)**

5.4.1 Where the review panel consider that the level of absence is unsustainable taking into account the Occupational Health advice, the timescales within which the employee may be able to return to work and the impact of the continuing absence on service provision, the employee will be given notice of dismissal. Dismissal would not normally be undertaken without obtaining medical advice. The letter will state that the dismissal is due to capability and inform the individual of their right of appeal. The employee may be placed on the redeployment register for the duration of their notice period, if appropriate.

5.4.2 Employees who are dismissed will be removed from the payroll; and only reinstated if the decision is over-turned on appeal.

# **. Appeals**

6.1 Employees may appeal against dismissal. The appeal must be submitted in writing within 14 calendar days of receiving the written outcome, and include the grounds for appeal and all information the employee wishes to rely on at the appeal hearing. If the grounds of the appeal and all the information the employee wishes to rely on is not submitted within this timeframe (without good reason), the right to appeal will be deemed to have lapsed.

6.2 Employees may appeal on the following grounds:

a) The proper procedure was not followed and the appeal panel will consider whether this materially affected the decision;

b) The decision reached was unreasonable considering the information available;

c) New evidence has become available.

6.3 Appeals against dismissal will be arranged and heard by a senior manager/director to include an HR representative who have had no previous involvement in the case. The appeal outcome decision is final.

# **7. Managing Sickness Absence Toolkit**

There is a host of information and guidance on managing sickness absence to assist managers and employees, including managers’ guides and template letters on the Managing Sickness Absence Toolkit.

# **8. Procedure Approval**

Updated January 2014

Updated July 14 – One Oracle reference

Updated Oct 14 – Pregnancy related absence reference

Updated 05 February 2018 – Procedure reviewed and updated

Updated May 2018 – data protection reference

Updated April 2019 – My Resources reference

Updated June 2022 – Fit Notes provided by GP or nurses, occupational therapists, pharmacists and physiotherapists, who will be able to issue fit notes as long as they have conducted an assessment of a patient's fitness for work under assessment

End