

## **SICKNESS ABSENCE POLICY AND PROCEDURES**

### **INTRODUCTION**

Reliable employee attendance at work is a vital factor in the effective and efficient operation of the Council's customer services.

High levels of sickness absence, on the other hand, are costly - affecting efficiency, productivity, profitability and morale.

It is accepted that occasional sickness absence is an inevitable part of working life, and also that some employees are unfortunate enough to suffer long term illnesses preventing their attendance at work for prolonged periods.

In neither case would the Council wish to take hasty action in respect of the employee, but, if either the absences are not for genuine reasons or are so frequent or prolonged that they prevent the employee from effectively meeting his/her contractual obligations, then action will be taken.

Managers should, therefore, show understanding for those absent for genuine reasons, particularly those who have a condition that falls within the scope of the employment law definition of "disability", and take immediate appropriate action against those who abuse the system at the possible expense of their colleagues and the service.

Employees should take responsibility for their attendance, proactively taking steps to avoid or mitigate sickness absences.

### **A PURPOSE**

This policy is designed to help and encourage all employees to achieve maximum attendance at work. The Council will manage this by ensuring that fair and consistent treatment of individuals is maintained and account is taken of the operational realities of the service in which individuals are employed.

This policy applies to all employees of this Council. Should it be necessary to apply its terms to any Chief Officer the necessary action will be taken by the Chief Executive in consultation with the Personnel Manager.

Sickness absence for the purpose of this policy means short term self-certified sickness or medically certified sickness absence, and long term medically certificated sick leave through ill health or injury.

### **B PRINCIPLES AND GUIDANCE**

- a) Employees are entitled to expect and receive fair treatment.
- b) Employees must be made aware of to whom, and by what time they are expected to notify their line management that they will be absent. Other

than in exceptional circumstances, any practice of leaving a message with the receptionist or a colleague should be stopped.

- c) Managers are responsible for monitoring and where necessary managing sickness absence within their section and are also entitled to deal rigorously with abuse of the system. Managers will have a “return to work” discussion with staff on their return from sickness absence, and will document this on the Return to Work form to:
- establish the cause of absence
  - indicate employer interest in the welfare of the employee
  - allow the manager to discuss with the employee their sickness absence record
  - reinforce management views on good attendance
  - confirm the line manager's role in the control procedure

Employees are often unaware of the frequency of their absences and how much time they have actually taken off. The interview, therefore, provides the manager with the opportunity to make it clear as soon as possible if the employee's sickness absence record is putting their employment at risk.

- d) Each person's circumstances must be considered individually and each case dealt with on its own merits. It must be remembered that sickness absence can sometimes be a symptom of other problems such as domestic difficulties, or it may be an indication that the employee is experiencing difficulties at work. Well conducted interviews can bring such problems to light. They should, therefore, be conducted sympathetically and in private. Personnel Services can provide counselling support for employees should a need emerge.
- e) Employees will be fully consulted if their absence is causing concern.
- f) In the case of long term sickness absence, no decision will be taken with regard to the employee's future employment without the service management having consulted Personnel Services and, through it, the Council's independent Occupational Health Adviser, who shall be a qualified medical practitioner.
- g) No formal action will be taken against an employee with a record of persistent short term sickness absence without the Service management having consulted Personnel Services.
- h) In any formal interview, or meeting (to which they will have been invited to in writing) with an employee about his/her sickness absence, he/ she will be given the right to be accompanied by a Trade Union

representative or work colleague and will have a right of appeal against any decision taken.

- i) The appropriateness of action taken under this policy and procedure will be according to the merits of the case and will not necessarily be linked to the employee's position in the sick pay or Local Government Pension schemes.
- j) The employee's length of service, predictions about performance, likelihood of change in attendance, availability of suitable alternative employment, and the effect of future absences on the service operation are issues which should be taken into account when deciding what appropriate action to take.
- k) The line manager should consult Personnel Services immediately if he/she is dissatisfied with the employee's explanation for his/her absence.
- l) Line managers should monitor sickness absence records to establish not only who has been absent, but the length of the absences and any emerging patterns.
- m) The Council acknowledges its responsibility to provide a safe and healthy working environment for its employees. Should any aspect of an employee's working environment be found to be affecting their health, the Council will endeavour to take corrective action.
- n) The Council will be mindful of its responsibilities under the terms of disability legislation and will endeavour to make reasonable adjustments to address any working provisions, criteria or practices that may impact adversely on employees who suffer physical or mental impairment. This may include an adjustment in working hours, re-allocation of office accommodation, and provision of suitably modified equipment.

## **C SHARED SERVICE AND PARTNERSHIP WORKING**

An increasing number of Council workers are seconded to work elsewhere either on a full or part time basis or in a form of shared or partnership arrangement. The procedures set out in this policy will apply to them. In particular, "secondees" must report their sickness absence to both the line manager at their "employing organisation" as well as their line manager at the organisation to which they have been seconded on day 1 of their sickness and must keep both managers advised of the progress etc of their condition as set out in Section D below. The Council will endeavour to work with partner organisations to resolve any ill health/sickness issues affecting "secondees" whether they are those who have been seconded to this Council or who are working here according to a partnership arrangement.

## D EMPLOYEE REPORTING REQUIREMENTS

Day 1	Sickness absence must be reported to the line manager or designated officer immediately.
As soon as possible	An employee must contact their line manager and give an indication of the nature and likely duration of their illness. They must also notify their line manager of when they know the return to work date and/or any likely recommendations for a phased return or adaptations to their role.
Day 8	A fit note must be supplied for absence of 8 days or more.

### 1. Self Certificates

Employees are required to complete a self certificate absence form for all periods of sickness absence of less than 8 days. The completed self certificate form should be sent to the Payroll Section.

### 2. Statement of Fitness for Work (Fit Notes)

A fit note is required if a period of absence lasts for more than 7 days inclusive of weekends, rest days, days not normally worked, holiday leave taken, and public holidays. Subsequent notes must be submitted to cover absence if it extends beyond the period of the initial certificate.

Fit notes include the option for the GP to express a view that an individual could be fit for work with accommodations by the employer and to indicate the effects of an individual's condition and what could help a return to work. The GP indicates either "not fit" or "may be fit".

Personnel Services should be consulted about any suggestions made by the GP. In many cases this will also entail a referral to the Council's Occupational Health Adviser. If the Council is unable to accommodate the suggested adjustments by either the GP or the Occupational Health Adviser, the fit note is treated as if it had indicated "not fit for work".

Fit notes should be sent to Personnel Services.

In compliance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR), line managers should notify the Health & Safety Officer if any staff are absent or incapacitated for more than 7 days due to a work related accident.

## E OCCUPATIONAL HEALTH REFERRALS

The Council may, at any time, refer an employee whose attendance pattern is causing concern or who is unable to perform their contractual duties due to ill health issues to the Council's Occupational Health Adviser. In most circumstances this will be a physician who will make an assessment of the individual's health in relation to their work. Following the consultation the

Adviser will write to Personnel Services offering advice about the effect the medical condition has upon the individual's ability to work. The employee will be sent a copy of this letter by the Occupational Health Adviser.

## **F      HEALTH INFORMATION AND DATA PROTECTION**

Under the Data Protection Act 2018 & GDPR information relating to an individual's health is special category personal data and highly confidential. Details relating to an individual's health must be kept securely on their personal file and should not be shared without explicit consent. However, to manage an issue relating to health, a manager will need access to health information that has been provided by the Council's Occupational Health Adviser or that is stored on the employee's personal file.

## **G      "NON ESSENTIAL" ELECTIVE PROCEDURES**

Unless covered by a fit note, sick leave should not be used for "non-essential" procedures such as laser eye treatment or cosmetic surgery. If such absence cannot be accommodated by annual leave or within the provisions of the Flexi Time Scheme, time off for such procedures should be unpaid. In the case of sickness following treatment the normal sick leave provisions will apply.

## **H      PERMANENT ILL HEALTH**

If, following an assessment by Occupational Health, an employee is considered permanently unfit to carry out the duties of their job, there are three possible outcomes:

- Redeployment to other appropriate work if possible.
- For employees who are members of the Local Government Pension Scheme, a consideration by Occupational Health of the employee's eligibility for ill health retirement according to the terms of the Local Government Pension Scheme.
- Termination of the individual's contract of employment on the grounds of capability.

## **I      PROCEDURE FOR DEALING WITH LONG TERM ABSENCE THROUGH ILL HEALTH**

- i) The line manager should keep in contact with the employee so that assistance can be offered and the likelihood and timing of a return to work can be assessed. In appropriate circumstances this could include a home visit by a representative of the service. Personnel Services should be consulted if it is anticipated that any employment related issues are likely to be raised.

- II) In cases where employees are returning to work after long term absence there is a probability that they may not be able to resume the full range of their duties immediately they return. In many such cases it is also likely that a phased return or a temporary adaptation of duties will have been recommended by the GP on the relevant fit note. For this reason all fit notes are passed to Personnel Services to ensure consistency in response to such recommendations. Line managers should advise Personnel Services as soon as they are aware that such recommendations are likely as it may be necessary to refer employees to the Council's Occupational Health Adviser. A short term "phased return" will normally be on full pay unless there are unusual circumstances, e.g. the employee having very short service prior to his/her sickness absence.
- iii) If, after a reasonable period of time in the circumstances of the case, the employee's G.P. cannot indicate a return to work in the foreseeable future, the employee should be consulted and advised that it is proposed to seek an independent medical opinion on his/ her condition from the Council's Occupational Health Adviser.
- iv) Subject to any sound reason for not doing so (e.g. a pending visit to a specialist consultant) the employee should be referred to the Council's Occupational Health Adviser for an opinion on his/her condition, the prospect of his/her return to work and whether there should be any restriction or adaptation to the type of work he/she undertakes upon return. This will be arranged through Personnel Services, and any associated costs will be borne by the Council.
- v) Consideration will then need to be given to the medical report. Should the report be satisfactory, in that it predicts a return to full effectiveness within an acceptable period of time acceptable to the Council, this information should be conveyed to the employee.
- vi) Should the report indicate that a return to full effectiveness will not be possible within an acceptable period of time, if at all, then the line manager, in consultation with Personnel Services, should consider what options are available depending on the circumstances.
- vii) The Council is not expected to create a special job for the employee concerned, nor be a medical expert, but to take action on the basis of medical evidence. If it is the opinion of the Council's Occupational Health Adviser that the individual's condition falls within the scope of the employment law definition of "disability", the Council will consider all options suggested by him/her for making reasonable adjustments to the role or working conditions. The Council will also consider options for re-deployment.
- viii) If, having considered the medical evidence and any associated recommendations from the Council's Occupational Health Adviser, it is considered that termination of contract may be appropriate, the employee must be invited, in writing, to attend a meeting so that he/she

can be consulted in order that any suggestions made by the employee can be considered before a decision to dismiss is taken. The employee has the right to be accompanied at this meeting by a Trade Union Official or a work colleague. Decisions to dismiss can only be taken by the Service Chief Officer after consultation with Personnel Services.

- ix) If the termination of a contract of employment is considered to be appropriate, it will be implemented as soon as possible after the final consultation with the employee, with the provisions of the pension scheme for ill-health retirement being applied as appropriate. Any decision to dismiss will be confirmed in writing and will include the right of appeal.
- x) An appeal against the decision to dismiss on the grounds of ill health /capability may be lodged in writing to the Director of Central Services within 5 working days of notification to the individual concerned. The letter should set out the grounds for appeal. The appeal will be heard by a panel of the Licensing & Appeals Committee.
- xi) The employee will be entitled to receive the period of paid notice according to his/her contractual entitlement.

## **J PROCEDURE FOR DEALING WITH PERSISTENT SHORT TERM ABSENCES**

Persistent short term absenteeism is usually unpredictable and disruptive to the service operation. If an employee's short term absence(s) is causing concern the procedure below should be followed.

- i) During the standard return to work interview the line manager should interview the employee on his/her return to work to ascertain whether the illness is likely to be the cause of further absences.
- ii) If the line manager is dissatisfied with the reasons given for sickness absence, or has other grounds for suspicion, he/she should consult Personnel Services to decide on appropriate action. This could, for example, include further investigations and/or disciplinary or capability action.
- iii) If the line manager is satisfied that the individual has been genuinely unwell but nevertheless considers his/her absence levels to be unacceptable, he/she should obtain the employee's permission to engage the services of the Council's Occupational Health Adviser to get a medical opinion as to the employee's fitness for his/her position.
- iv) Personnel Services will arrange for the employee to be examined by the Council's independent Occupational Health Adviser. On the basis of the medical opinion, a decision will be taken by the Service Chief Officer in consultation with Personnel Services as to whether the employee is capable of carrying out the job he/she is employed to do, whether a

transfer to a more suitable post is an available option, or whether termination of employment might be appropriate. If it is the opinion of the Council's Occupational Health Adviser that the individual has a condition that falls within the scope of the employment law definition of "disability", the Council will consider all options suggested by him/her for making reasonable adjustments to the role or working conditions. The Council will also consider options for re-deployment.

- v) The line manager and a representative from Personnel Services should then have a meeting with the employee in which he/she is informed of the opinion of the Occupational Health Adviser and, if necessary, advised that continuation of previous sickness absence levels will lead to formal action which could eventually affect his/her employment.
- vi) Where an employee refuses to co-operate in providing medical evidence or to undergo an independent medical examination, he/she should be told that any decision made regarding his/her future employment prospects will be based on the information available to the Council.
- vii) Should unacceptable absence levels persist, or it not be possible to make any reasonable adjustment to the role or working conditions, or no alternative employment is available, it will become necessary to terminate the employee's contract (as per the Dismissal or Capability Procedure). Should this occur the employee will be entitled to receive his/her contractual notice and will have a right of appeal.

## **K TAILORED ADJUSTMENT AGREEMENT (for those with a disability as defined by the Equalities Act 2010)**

The Tailored adjustment agreement' in the Annex to this policy is a living record of reasonable adjustments agreed between a disabled employee and their line manager.

The purpose of this agreement is to:

- Ensure that both parties, the individual and the employer, have an accurate record of what has been agreed.
- Minimise the need to re-negotiate reasonable adjustments every time the employee changes jobs, is re-located or assigned a new manager within the organisation.
- Provide employees and their line managers with the basis for discussions about reasonable adjustments at future meetings.

This is a live document and should be reviewed regularly or whenever there is a requirement for a change by both the employee and manager (supported by a representative from HR). The employee can, if they so wish, be accompanied by a work colleague or Trade Union representative. Expert advice from third parties, such as occupational health advisers, Access to Work or IT specialists may be needed before changes can be agreed and implemented.

New managers of employees with such 'Tailored adjustment agreements' should accept the adjustments outlined in the agreement as reasonable and ensure that they continue to be implemented. The agreement may need to be reviewed and amended at a later date but this should not happen until both parties have worked together for a reasonable period of time.

The agreement allows the employee to:

- Explain the impact of your disability on you at work.
- Suggest adjustments that will make it easier for you to do your job.
- Offer further information from your doctor, specialist or other expert.
- Request an assessment by occupational health, Access to Work or another expert.
- Review the effectiveness of the adjustments agreed.
- Explain any change in your circumstances.
- Be reassured that your manager knows what to do if you become unwell at work and who to contact if necessary.
- Know how and when your manager will keep in touch with you if you are absent from work because of illness or a disability related reason.

The agreement allows the line manager to:

- Understand how a particular employee's disability affects them at work.
- Explain the needs of the business or organisation.
- Explain the organisation's attendance and reasonable adjustment policy.
- Recognise signs that an employee might be unwell and know what the employee wants you to do in these circumstances including who to contact for help.
- Know how and when to stay in touch if the employee is off sick.
- Consider whether or not the employee needs to be referred for an assessment by an occupational health or another adviser to help both parties understand what adjustments are needed.
- Review the effectiveness of the adjustments already agreed.
- Explain any change in the employer's circumstances.

December 2007 (updated 2015)

Amended June 2015 (updated August 2016 and October 2018)