

# **Managing Attendance & Stress at Work**

## **POLICY & PROCEDURE**



EAST CAMBRIDGESHIRE  
DISTRICT COUNCIL

## **MANAGING ATTENDANCE & STRESS AT WORK**

### **POLICY & PROCEDURE**

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## **1. INTRODUCTION**

- 1.1** This policy and procedure covers the management of health and sickness issues for all Council employees. Specifically, this covers the responsibilities of the Council, managers and staff in promoting good health and in managing sickness absence.
- 1.2** The purpose of this policy and procedure is to assist line managers in managing attendance and aims to:
- ensure that sickness absence is managed in a fair, sensitive and consistent manner with due regard to individual circumstances;
  - balance the interests of the individual and the operational needs of the Council;
  - promote a proactive and positive approach to managing attendance, in order to minimise levels of absence;
  - encourage early indication of occupational health issues and illness which could result in long term incapacity; and
  - increase awareness and understanding of stress related issues and the importance of general good health and wellbeing.
- 1.3** Although some absence is inevitable, managers can significantly reduce levels of sickness through positive action, such as maintaining open communication, setting clear objectives, encouraging team work and reducing the level of stress in the workplace.
- 1.4** The Council is committed to ensuring that this policy and its application reflect the principles of the Council's Equality, Diversity and Inclusion Policy. This means treating people fairly and protecting them against discrimination. In particular, the Council recognises its responsibility to meet all its legal obligations for managing staff with underlying health issues in line with the Equality Act (2010).
- 1.5** Employee health information is regarded as 'sensitive' data in accordance with the General Data Protection Regulations (GDPR). As such, access to employee health data is restricted to Officers who will use it only where it is necessary for the protection of health and safety, to prevent discrimination on the grounds of disability or to satisfy other legal obligations. This information will be stored, processed and distributed in accordance with strict security procedures and will not be kept for longer than is necessary.

## **2. RESPONSIBILITIES**

**2.1** There are many stakeholders involved in managing attendance and stress at work, e.g. Management Team, Service Leads, line managers, employees, Human Resources and Trade Union Representatives. The key responsibilities of stakeholders are summarised.

**2.2** Management Team will:

- Monitor attendance across the Council, ensuring that Service Leads and line managers address any areas of concern.
- Ensure good communication especially where there are organisational or procedural changes to reduce the risk of work-related stress.
- Take an active role in formal attendance hearings.

**2.3** Service Leads will:

- Monitor attendance within their own area of responsibility, ensuring that line managers address any areas of concern.
- Take an active role in formal attendance review meetings.
- Ensure that contact is maintained with employees who are absent due to ill health for more than five working days.
- Demonstrate a fair, consistent and supportive approach to all employees.
- Be alert to the risk of work-related stress in their staff and offer support to any member of staff who is experiencing stress.
- Refer cases of stress identified from self-certificates and doctor's certificates, on a confidential basis, to the HR team to enable any appropriate interventions to be made.

**2.4** Line managers will:

- Ensure that absence reporting procedures are followed on People Manager, including Notification of Sickness Absence forms and return to work interviews.
- Maintain regular and reasonable contact with employees during periods of absence longer than 5 working days.
- Manage attendance within their own area of responsibility, addressing any areas of concern.
- Take an active role in informal and formal attendance review meetings.
- Ensure good communication between management and staff, particularly where there are organisational and procedural changes.
- Be alert to the risk of work-related stress in their staff and offer support to any member of staff who is experiencing stress.
- Conduct appropriate risk assessments, implement recommendations and review annually.
- Monitor workload, working hours, annual leave and sickness absence to ensure that staff are not overloaded.
- Ensure that bullying and harassment is not tolerated.
- Demonstrate a fair, consistent and supportive approach to all employees.

**2.5 Employees will:**

- Take responsibility for their health and safety and ensure that they fulfil their contractual responsibilities relating to their attendance at work.
- Be aware of and understand the procedure for reporting absence.
- Maintain regular contact with their manager throughout any absence.
- Submit appropriate medical certificates at the required times.
- Participate in return to work interviews after any period of sickness.
- Co-operate with the Council in its efforts to manage work-related stress.

**2.6 Human Resources will:**

- Provide assistance, advice and support to Management Team, Service Leads, line managers and employees in the management of attendance.
- Develop phased return to work schedules and plans.
- Provide assistance in managing individual cases of stress and advice on stress prevention.
- Refer staff to Occupational Health for advice and guidance where appropriate.
- Collect, analyse and publish (where appropriate) departmental and organisational absence statistics.

**2.7 Trade Union Representatives will:**

- Provide assistance, advice and support to employees during the management of attendance and/or stress issues.

### 3. DEFINITIONS

Sickness Absence	This occurs when ill-health, including disability or accident, makes an employee unfit to work. It also occurs when a doctor advises an employee to stay away from work due to illness, convalescence or the possibility of being contagious.
Short-Term Absence	Short-term absence is the period of time covered by a self-certificate (up to and including 7 calendar days). This type of absence does not normally have a set pattern and is usually caused by minor, and in most cases, unconnected illnesses.
Frequent Short-Term Absence	This is where an employee has a number of short-term absences which may or may not be related.
Long-Term Absence	For the purposes of this policy and procedure, long term sickness absence is when an employee has been, or is likely to be, absent from work for four weeks or more.
Unauthorised Absence	This occurs when an absence: <ul style="list-style-type: none"> <li>▪ Is not supported by a medical certificate;</li> <li>▪ Has not been reported in line with the sickness absence reporting procedure;</li> <li>▪ Has not been previously authorised by line management; and</li> <li>▪ Is not authorised by any other special leave arrangements.</li> </ul>
Underlying Health Condition	Significant medical conditions, e.g. clinical depression, back conditions or injuries, multiple sclerosis, breaks or fractures to bones etc.
Stress	The Health and Safety Executive define stress as “the adverse reaction people have to excessive pressure or other types of demand placed on them”.
Phased Return to Work	A phased return to work is a reasonable temporary, short-term adjustment to an employee's work until they are fully able to return to normal duties/pattern of work.
Reasonable Adjustments	Possible reasonable adjustments or modifications which would enable the employee to be fit to return to work, e.g. changes to hours or duties, the use of particular equipment etc.
Redeployment	The process of finding suitable alternative employment for an employee who is unable to carry out the existing duties of their post.
Ill-health Retirement	Where it is determined (by an Occupational Health physician) that, due to their disability/condition, there is no reasonable prospect of an employee obtaining gainful employment before age 65.
Gainful Employment	Any paid employment that an individual could do for not less than 30 hours in each week for a period of not less than 12 months.

#### 4. **REPORTING SICKNESS ABSENCE**

4.1 If, due to sickness, a member of staff is unable to attend work they have a responsibility to let their line manager know. The procedure for this is simple and must be followed:

- (a) The employee must contact their line manager or, if they are unavailable, another officer within their Department, by 10.00am\* on their first day of absence. (\*Facilities and Open Spaces staff should report to their line manager as early as possible before the start of their shift.)
- (b) Wherever possible, contact should be made in person by telephone to the employee's line manager. If they are not available, then contact should be made to another officer within their Department or HR. If, due to the nature of their condition (i.e. the employee is in hospital), other forms of contact will be permissible, e.g. text or email. If an employee is not able to make contact at all, then they must ensure that somebody does so on their behalf.
- (c) The member of staff should always provide their line manager with the following information:
  - The nature of their illness;
  - Their anticipated length of absence;
  - Whether they intend to consult a doctor; and
  - Details of any outstanding work, or messages to be passed to others.
- (d) If an employee, for personal reasons, feels uncomfortable about discussing the nature of their illness with their manager, they can contact HR instead who will then notify the individual's line manager without disclosing the reason for their absence.
- (e) If an employee's sick leave is likely to last for more than five working days, their line manager will need to keep in contact with them. The employee should agree with their line manager how regular and frequent this contact will be, and what form it will take.
- (f) The **line manager** must immediately log the absence in People Manager under: *People - Absence - Add New Sickness Absence*. By selecting the sickness period as 'more than one day', the period of absence will be left open until the employee returns to work.
- (g) The **line manager** must inform Customer Services of the member of staff's absence (although obviously not the reason) in order that calls/visitors can be diverted to an appropriate person. If any outstanding work is to be distributed or messages to be passed on to others, the manager will make the necessary arrangements. If an out-of-office



message is also required for email purposes, the manager will need to contact ICT to authorise this.

- (h) On return to work after a period of sickness, the **Employee** must log into Employee Self Service (ESS) to close the absence. Once an end date has been added to the period of absence, the line manager will be notified by email to carry out a return to work meeting.

## 5. **CERTIFICATION**

- 5.1 In cases of ill health lasting more than 7 days, staff are required to obtain a 'Fit Note' from their General Practitioner (GP).
- 5.2 Medical certificates issued by GPs are known as 'fit notes'. The fit note is required from the 8th calendar day of absence and used as written evidence that an employee is unable to work because of illness or injury for sick pay purposes.
- 5.3 Fit Notes should be scanned or copied and attached to the individual's absence record in People Manager by the line manager or HR.
- 5.4 The fit note includes the option 'May be fit for work taking account of the following advice', allowing GPs to provide information about the impact of the condition and make suggestions as to how the employee might be able to return to work with necessary modifications.
- 5.5 Any such recommendations should be discussed with the employee either on or prior to their return to work encouraging adaptability when managing sickness absence. This should not preclude referral to an Occupational Health for specialist advice (see Section 12).
- 5.6 The manager may need to carry out a risk assessment to accommodate the clinical judgment in the fit note (e.g. if it states that the employee should avoid lifting, they should not be given work that involves manual handling). Guidance on risk assessments is available on the HSE website.
- 5.7 If the employer cannot accommodate any of the recommendations from the GP, then the fit note should be treated as if it says that the employee is not fit for work. The employee does not need a new fit note from their doctor to confirm this.
- 5.8 Where absence is prolonged, further Fit Notes must be forwarded to the HR department at regular intervals but as a minimum within 7 days of the expiry of the last certificate. **Please note that the late receipt of doctor's certificate may result in the suspension of sick pay.**

## **6. RETURNING TO WORK**

- 6.1 On return to work after a period of sickness, the **Employee** must log into Employee Self Service (ESS) to close the absence. Once an end date has been added to the period of absence, the line manager will be notified by email to carry out a return to work meeting.
- 6.2 After every period of sickness absence, it is mandatory for the line manager to arrange to carry out a “return to work” meeting with the employee as early as possible on the day they return. The aim is to be supportive and helpful, and show that sickness absence is taken seriously. The meeting should cover the following points:
- A welcome back and check on how they are feeling/coping.
  - Confirm the reason for the sickness absence (if the employee is prepared to disclose this to the manager) and discuss the steps taken by the employee to recover.
  - If there is a regular pattern of absence, a sensitive discussion about what might be causing this.
  - To bring them up to date on what has happened while they have been away.
- 6.3 The **line manager** must record the return to work discussion immediately in People Manager under: *People - Absence - Add New Return to Work Details*.
- 6.4 If it is a sensitive matter, the employee can request to hold the meeting with a representative from HR.
- 6.5 In discussing issues with the employee the manager should always be prepared to listen and take remedial action if poor working practices or environments are believed to be contributing to sickness absence. In these circumstances, it may be necessary for the line manager to carry out a risk assessment or request a workstation assessment from the team’s trained assessor.

## **7. PROCEDURE FOR MANAGING FREQUENT SHORT-TERM SICKNESS ABSENCE**

This is where an employee has a number of short-term absences (i.e. up to and including seven calendar days) which may or may not be related.

### **7.1 Informal Process – Support, Counselling and Objective Setting**

Frequent short-term sickness absence management is the responsibility of the line manager and will initially be dealt with through monitoring, return to work interviews, counselling and objective setting.

### **7.2 Key ‘Trigger Points’ for Management Action**

An individual’s cumulative absence from work will trigger a formal review meeting if they have either:

- three absences of 7 days or less in any rolling 12 month period; or
- a regular identified pattern of absence.

#### **Regular Patterns of Absence**

Bank Holidays & Weekends	When an employee develops a pattern of absence before or after bank holidays and/or weekends.
Annual Leave	When an employee develops a pattern of sickness absence before or after booked annual leave.
Part Day Absences	When there is a regular pattern of part day absences.
Nature of Absence	When an employee is regularly absent for the same/similar reason.

The Service lead officer may, in exceptional circumstances and in consultation with HR, decide to investigate an employee’s attendance prior to either of these trigger points being reached where they are sufficiently concerned to take such action necessary.

It is not necessary to wait until a trigger point is reached before referring an employee for medical advice. Neither is it a requirement that an employee is referred for medical advice when a trigger point is reached. Each case will be assessed on its own merits.

### **7.3 Formal Process**

#### **7.3.1 First Formal Review Meeting**

- 7.3.1.1 Employees identified to attend a first formal review meeting with their line manager will receive reasonable notice (normally 5 working days) of the meeting in writing from HR. The meeting can, however, take place earlier with the employee’s agreement.

- 7.3.1.2 The employee can be accompanied at the meeting by a colleague or a union representative if he/she so wishes.
- 7.3.1.3 The purpose of this meeting will be to:
- Discuss the frequency and reasons for absence;
  - Consider whether there is an underlying cause for the absence;
  - Highlight the impact of their absence(s) on the team/organisation;
  - Explore whether the employee is experiencing problems at work (e.g. working patterns, conflict etc) or at home (e.g. childcare, dependants, relationship, financial problems etc);
  - Explore whether sufficient help, advice and practical action has been offered to improve attendance or whether anything else could be done to help the employee in the future; and
  - Explore what action the employee has taken to improve attendance.
- 7.3.1.4 In all cases, where an underlying medical condition is identified, line managers and HR should follow the Council's Long-term Sickness Absence Procedure (see Section 8).
- 7.3.1.5 When managing sickness absence where no underlying medical condition has been identified (see Flow Chart in Appendix 1), options for further action include:
- Encouraging the employee to seek medical advice from their GP.
  - Offering a referral to an Occupational Health Advisor.
  - Exploring again whether the employee is experiencing problems at work (e.g. working patterns, conflict) or at home (e.g. childcare, dependants, relationship, financial problems).
  - Encouraging the employee to seek counselling.
  - Agreeing any actions that the employee can take to improve attendance.
  - Agreeing for the case, due to its particular circumstances, to be managed in accordance with the Council's long-term sickness absence procedure (see section 8).
  - Considering the extension/termination of an employee's contract who is still within their probationary period (if appropriate).
  - Advising the employee on the consequences of failing to achieve an acceptable level of attendance (see 7.3.1.8).
- 7.3.1.6 The outcome of the first formal review meeting, including the agreed review dates at 3 and 6 months (or sooner if required) will be followed up in writing by the HR department.
- 7.3.1.7 If, at the end of 6 months, the employee's attendance has been satisfactory, then they will receive a letter confirming that the formal process will now be suspended, providing there is no repetition of poor

attendance at work without an underlying medical reason within the next 12 months.

- 7.3.1.8 Where the employee's attendance record fails to improve after a 3 or 6 month review period then a second formal review meeting will be arranged.

### **7.3.2 Second Formal Review Meeting**

- 7.3.2.1 Employees will receive a minimum of 5 working days written notification of the meeting.

- 7.3.2.2 The line manager or Service lead and HR representative will conduct the second formal review meeting. The employee may be accompanied by a colleague or union representative.

- 7.3.2.3 The purpose of this meeting will be to:
- Discuss the frequency and reasons for absence;
  - Highlight the impact of their absence(s) on the department/organisation;
  - Consider any action taken or support offered to improve attendance;
  - Explore what action the employee has taken to improve attendance.
  - Consider any medical advice received;
  - Try to ascertain whether there is an underlying medical condition (if this has not already been identified); and
  - Encourage the employee to discuss confidentially the reasons, which may be causing their poor attendance record. Examples of non-health related issues that may cause poor attendance can include harassment, bullying, domestic abuse, stress, child-care and relationship problems. The manager needs to be constructive in looking at ways in which they can assist the employee to deal with their issues and may need to refer the employee to other policies and procedures if these are appropriate.

- 7.3.2.4 In all cases, where an underlying medical condition is identified, line managers and HR should follow the Council's Long-term Sickness Absence Procedure (see Section 8).

- 7.3.2.5 Where no underlying medical condition has been identified (see Flow Chart in Appendix 1), options for further action include:
- Agreeing any actions that the employee can take to improve attendance.
  - Asking the employee to seek medical advice from their GP.
  - Offering a referral to an Occupational Health Advisor.
  - Encouraging the employee to seek counselling.

- Agreeing for the case, due to its particular circumstances, to be managed in accordance with the Council's long-term sickness absence procedure (see section 8).

7.3.2.6 The outcome of the second formal review meeting, including the agreed review dates at 3 and 6 months (or sooner if required) will be followed up in writing by the HR department.

7.3.2.7 If, at the end of 6 months, the employee's attendance has been satisfactory, then they will receive a letter congratulating them on their improvement and explaining the importance of sustaining this standard. The letter will confirm that the formal process will now be suspended, providing there is no repetition of poor attendance at work without an underlying medical reason within the next 12 months.

7.3.2.8 Where the employee's attendance record fails to improve after a 3 or 6 month review period then a third formal review meeting will be arranged.

7.3.2.9 If the employee has made the required improvement during the review period but has subsequently had a repetition of sickness absence without an underlying health condition in the next 12 months, another Second Formal Review Meeting will be arranged.

### **7.3.3 Third Formal Review Meeting**

7.3.3.1 A third formal review meeting will be arranged if the employee has failed to make the required improvement during the review period.

7.3.3.2 Employees will receive a minimum of 5 working days written notification of the meeting.

7.3.3.3 The relevant Service lead and HR representative will conduct the third formal review meeting. The employee may be accompanied by a colleague or union representative.

7.3.3.4 The purpose of this meeting will be for the Service lead, advised by HR, to:

- Look back at the employee's attendance over the last 2 years and compare against the Council's annual sickness target;
- Review the case in light of the information that has been provided by the employee during the first and second formal review meetings;
- Discuss the number of periods, and reasons for, any absence following the second formal review meeting;

- Highlight the impact of their absence(s) on the department/organisation;
  - Consider any action taken or support offered to improve attendance;
  - Explore what action the employee has taken to improve attendance;
  - Consider any medical advice received;
  - Try to ascertain whether there is an underlying medical condition (if this has not already been identified); and
  - Encourage the employee to discuss confidentially the reasons, which may be causing their poor attendance record. Examples of non-health related issues that may cause poor attendance can include harassment, bullying, domestic abuse, stress, child-care and relationship problems.
- 7.3.3.5** In all cases, where an underlying medical condition is identified, line managers and HR should follow the Council's Long-term Sickness Absence Procedure (see Section 8).
- 7.3.3.6** After hearing all of the evidence, if it appears that there were no good medical reasons for the absence(s), or if the employee has had unauthorised absence(s), the Service lead can:
- Extend the review period for 1-3 months but only to enable further investigations to be carried out (e.g. further report from Occupational Health/establishing of facts or evidence); or
  - Issue a First Written Warning – in accordance with the Council's Disciplinary Policy and Procedure.
- 7.3.3.7** A First Written Warning will be kept on the employee's HR file for 12 months and their attendance will continue to be monitored over this 12 month period. The employee's attendance may be reviewed at any time during this 12 month period. Subject to satisfactory attendance, the disciplinary warning will be destroyed after this time.
- 7.3.3.8** An employee reserves the right of appeal against any decision that is made concerning their employment and the process for submitting an appeal is set out in Section 9.
- 7.3.3.9** The outcome of the third formal review meeting, including the agreed review dates will be followed up in writing by the HR department.
- 7.3.3.10** If, at the end of 12 months, the employee's attendance has been satisfactory, then they will receive a letter confirming that the formal process will now be suspended, providing there is no repetition of poor attendance at work without an underlying medical reason within the next 12 months. The expired disciplinary warning will be removed from the employee's HR file and destroyed.



- 7.3.3.11 Where the employee's attendance record fails to improve during the 12 months a Formal Hearing will be arranged.

**7.3.4 Formal Hearing**  
**(where no underlying medical condition has been identified)**

- 7.3.4.1 A Formal Hearing will be arranged if the employee has failed to make the required improvement during the review period. The employee will be informed in writing of the hearing and the reasons why it has been arranged.

- 7.3.4.2 Employees will receive a minimum of 5 working days written notification of the Hearing.

- 7.3.4.3 The formal hearing will consider the matter of attendance and will be heard by a Director or the Chief Executive.

- 7.3.4.4 The employee will be able to be represented at this meeting by a trade union representative or a colleague. The Service lead who attended the Third Formal Review Meeting will also be in attendance.

- 7.3.4.5 During the hearing the Director or Chief Executive, will carefully consider how the employee's attendance has been managed and the following factors as relevant to each case:

- the likelihood of the employee achieving satisfactory attendance in the near future;
- the effect of the absence on the department/organisation;
- what action the employee has taken to improve attendance;
- medical advice received; and
- the requirements of the Equalities Act.

See Appendix 6 for the Procedure for Conducting Formal Hearings. The Director or Chief Executive will be supported with procedural advice and guidance provided by an HR representative.

- 7.3.4.6 After hearing all of the evidence, if it appears that there were no good medical reasons for the absence(s), or if the employee has had unauthorised absence(s), the outcome of the formal hearing may result in any of the sanctions of the Council's Disciplinary Policy and Procedure which includes dismissal.

- 7.3.4.7 If the Director or Chief Executive concludes that the employee and the process have been managed fairly, that the required level of attendance is fair and achievable and that the employee has been given all reasonable opportunity to improve to an acceptable standard but failed to do so because of a genuine illness, the Director or Chief Executive will be able to consider action including the ability to

terminate the employee's employment with the appropriate notice on the grounds of 'Some other Substantial Reason' (SOSR) for persistent, intermittent absence.

- 7.3.4.8 If the Director or Chief Executive concludes that sufficient reasonable opportunity has **not** been given to the employee, or further medical advice is required, he/she can agree one further and final review period during which the employee will be required to achieve the required minimum acceptable level of attendance.
- 7.3.4.9 The main details discussed during the meeting and its outcome (including dismissal) will be confirmed in writing to the employee and their representative within 5 working days.
- 7.3.4.10 An employee reserves the right of appeal against any decision that is made concerning their employment and the process for submitting an appeal is set out in Section 9.

## **8. PROCEDURE FOR MANAGING LONG-TERM SICKNESS ABSENCE (or frequent short-term sickness absence where an underlying medical condition has been diagnosed)**

### **8.1 What is long-term sickness absence?**

**8.1.1** For the purposes of this procedure, long term sickness absence is when an employee has been, or is likely to be, absent from work for four weeks or more and is:

- likely to return to their current post and may need a period of rehabilitation;
- unlikely to return to their current post but may be able to undertake adjusted or alternative duties;
- unlikely to be able to return to work in any capacity.

OR

When an individual is not absent, but as a result of illness or an accident which has caused a change in his/her physical or mental state, is not capable of performing their role to the required standard.

### **8.2 What is sickness absence with an underlying health condition?**

**8.2.1** This is defined as a period or pattern of sickness for which an individual's GP or Occupational Health advise that there is an underlying health condition. This type of condition will normally present itself as long term sickness absence – a long period or periods of sickness absence normally with a high number of days of absence but over few episodes – although it can in some cases present in a different pattern (e.g. lots of short periods of sickness absence). Examples of causes would be significant medical conditions such as clinical depression, back conditions or injuries, multiple sclerosis, breaks or fractures to bones etc.

**8.2.2** For the purposes of this procedure, all frequent short-term sickness absence where an underlying medical condition has been diagnosed which may meet the requirements of the Equality Act (2010), will be treated as long-term sickness (see Appendix 2). In cases where the Equality Act does apply, the Council will have a duty of care to make reasonable adjustments. In these circumstances, in addition to the steps outlined below, the Service lead should refer to Section 14.1, where a number of processes are detailed that should be followed to support the management of these cases.

**8.2.3** Whilst this section sets down a general procedure for managing sickness absence where there is an underlying medical condition, it should be emphasised that each case will be judged on its particular

circumstances, especially if there are health problems of a serious or terminal nature. For example, it may be appropriate to agree with the employee to move straight into an application for ill health retirement if they meet the necessary qualifying criteria or, alternatively, to consider another post within the employee's capabilities.

- 8.2.4** Throughout this procedure, the term 'long-term sickness' will be used to refer to employees who are absent from work on a long-term basis, or who have been diagnosed with an underlying health condition.

### **8.3 Stage 1: Formal Review Meetings**

- 8.3.1** In cases where an employee is absent from work on a long term basis and/or has been diagnosed with a underlying medical condition, the HR Department will contact the employee by telephone and in writing, to arrange a suitable date and time for a formal review meeting with the individual's line manager or Service lead and an HR Representative.
- 8.3.2** Employees will receive reasonable notice of the meeting (normally a minimum of 5 working days). The meeting can, however, take place earlier with the employee's agreement. The employee can be accompanied at the meeting by a colleague or a union representative if he/she so wishes.
- 8.3.3** If the employee is absent from work, the meeting will be arranged at the employee's home approximately 4-6 weeks after the start of their absence (or 2 weeks in work related stress cases). Alternatively, at the employee's request, the meeting can be held at the Council offices, or another suitable location or via telephone or video conference.
- 8.3.4** For the employee, the purpose of the review meeting is to discuss their health and wellbeing. Where the member of staff is on long-term sick leave, the meeting is also to help minimise any feelings of isolation or concern that they may be experiencing, and to keep them up to date with what is happening at work.
- 8.3.5** For the Council, the meetings help officers to understand the employee's situation and to assess whether the Council can offer any assistance. Where the member of staff is on long-term sick leave, these meetings can also be used to help the employee return-to-work at the earliest opportunity, by discussing the need for reasonable adjustment, including the use of phased return to work plans.
- 8.3.6** In such cases, a referral to an Occupational Health advisor will be considered for guidance on the employee's fitness for work (if necessary) (see Section 12).

- 8.3.7** During the formal review meeting, the following options should be considered where appropriate, led by GP/Occupational Health advice as necessary and the employee's manager/Service lead. A reasonable timescale should be set to explore the appropriate alternatives and sufficient time should be given for the employee to consider the options.

Options for consideration when dealing with long-term sickness cases:

(a)	Return to existing post at an agreed date	No further support/assistance required.
(b)	Phased return to work	<p>There may be occasions particularly after a period of long-term absence, major surgery or an injury, when an employee may need additional support to assist their return to full duties. In these circumstances, to help the individual return to work, a phased return may be appropriate.</p> <p>A phased return to work is a reasonable, short-term adjustment to an employee's work where their hours are increased week by week until they reach the level of their usual contractual hours (see Appendix 3 for Phased Return to Work Form).</p> <p>In most circumstances, a phased return to work will be for a duration of up to 4 weeks. Where it is deemed appropriate, a longer period of phased return may be agreed by the HR Manager and the employee's manager/Service lead.</p> <p>Phased returns are only appropriate for employees expected to return to their full duties after a period of rehabilitation.</p> <p>When participating in a phased return to work, an employee will be paid as normal for the hours that they work, and will continue to receive sick pay for the hours that they are not at work. Therefore, the member of staff will need to provide a Fit Note from their GP for the period of the phased return with a note on the certificate confirming the GP's agreement with the proposals.</p>

	Phased Return to Work (Continued)	<p>An employee may request to use outstanding annual leave in order to extend a phased return to work programme, with the agreement of their line manager and HR.</p> <p>Any periods of pre-planned and agreed leave will be considered as such during the period of the phased return and will be deducted from the employee's leave entitlement on ESS.</p> <p>If sickness absence occurs during a phased return, sick pay entitlements will be triggered and consideration will be given as to whether the phased return arrangement will need to end.</p> <p>In the event of an unsuccessful phased return, or the necessity of a second phased return arrangement in a rolling 12 month period it will be up to the employee's manager in discussion with HR and GP/Occupational Health to consider whether further phased return to work programmes are supported or whether other options should be considered.</p>
(c)	Return to existing post with reasonable adjustments or modifications	<p>All possible reasonable adjustments or modifications will be considered which would enable the employee to be fit to return. Where appropriate, further advice may be sought from GP/Occupational Health.</p> <p>Adjustments may include contractual changes to hours or duties of the role on a temporary or permanent basis. The Manager will need to assess whether these changes can reasonably be accommodated without having a detrimental effect on the service (see Appendix 4 for Reasonable Adjustment Request Form).</p> <p>Modifications may include the use of particular equipment or improving access</p>

		or facilities. In these situations managers will need to take advice from HR on what modifications/adjustments would be reasonable in a given situation.
(d)	Ill-Health Redeployment	<p>If it is not possible for the employee to return to their post under options (a) to (c) above then the manager should consider redeploying them into another post where it is mutually agreed.</p> <p>In this situation the employee's GP/ Occupational Health should give advice on what tasks the employee is capable of undertaking and what type of posts the employee would be fit to be re-deployed into (see Appendix 5 for Ill-Health Redeployment Form).</p> <p>The Manager would then set up a period (up to 12 weeks) during which re-deployment would be sought for the employee. During the re-deployment period the employee would have priority status and be considered before other applicants for a post (other than other candidates with priority status for either health or redundancy reasons).</p>
(e)	Application for Ill-health Retirement	<p>Where it has not been possible for an employee to return under options (a) to (d) above and where the employee belongs to the Local Government Pension Scheme (LGPS) and has the required length of membership to the pension scheme then consideration should be given to an application for ill-health retirement.</p> <p>Applications for ill-health retirement will need to meet specific criteria (see Section 13). For further information regarding ill health, employees should seek advice from the LGSS Pensions Service.</p>
(f)	Voluntary Early Retirement and other retirement options	If the application for ill-health retirement is not successful then the employee can consider options of voluntary early

		retirement or other retirement options as an alternative to dismissal (depending on meeting the age related criteria).
(g)	Dismissal on the grounds of Capability	<p>Only where the appropriate options listed above have been examined and found not to be possible including where an application for ill-health retirement is not applicable, will a manager consider terminating an employee's employment on the grounds of capability due to ill-health.</p> <p>In these circumstances an employee will be required to attend a formal attendance hearing (see Section 8.4).</p>

- 8.3.8** With support from HR, managers should give careful consideration to any advice from the GP that the employee 'may be fit for work' with support to achieve a return to work ('Fit Note'). The manager and HR Representative should arrange to meet with the employee to discuss the fit note and whether it would be possible to accommodate the support identified by the GP.
- 8.3.9** If the manager decides that the support can be accommodated they should agree with the employee a return to work date, the workplace adjustments, monitoring arrangements and a date to review the temporary arrangement. Managers making adjustments will need to consider whether a revised workplace risk assessment is required.
- 8.3.10** If it is not possible to accommodate the GP's advice regarding support, the manager will explain this to the employee and agree a review date.
- 8.3.11** Suggestions from GP's relating to support are provided as advice only and are not binding and it is for the employer to make the final decision as to whether the support identified can be accommodated.
- 8.3.12** It would be impractical to obtain advice from Occupational Health on all cases involving adjustments recommended by medical practitioners. Managers need to have careful conversations with employees and base planned returns on common sense. Complex/long term absence cases should be referred to Occupational Health in the usual way (see Section 12).
- 8.3.13** Given the time that it may take for a clear diagnosis of the employee's condition, or for a review of the effectiveness of treatment, it is likely that a number of Formal Review Meetings will need to occur before final



advice is given by the employee's GP/Occupational Health and before a final set of actions in line with the options (set out in Section 8.3.7) can be implemented.

- 8.3.14** Whilst the employer will take all reasonable steps to assist employees to return to work, it is not possible to wait indefinitely for an employee's condition to improve. Whilst each case will be judged on its particular circumstances, managers should endeavour to ensure that appropriate action in line with the options (set out in Section 8.3.7) is taken as soon as possible. The employee will be informed in writing of the actions to be pursued and the timescale over which they would be considered.

**8.4 Stage 2: Formal Hearing**  
**(where an underlying medical condition has been identified)**

- 8.4.1** Only where the appropriate options listed above have been examined and found not to be possible, will a manager consider terminating an employee's employment on the grounds of capability due to ill-health. In these circumstances an employee will be required to attend a formal attendance hearing.
- 8.4.2** The employee will be given five working days' written notice of the meeting, advised of the right to be accompanied by a workplace colleague or trade union representative, confirmation of the nature of the concerns and possible outcome, and provided with all relevant documentation that will be discussed at the hearing. The meeting will be chaired by either the Director or Chief Executive, and an HR Representative will attend to support and advise them. See Appendix 6 for the Procedure for Conducting Formal Hearings.
- 8.4.3** During the hearing the Director or Chief Executive, will carefully consider how the employee's attendance has been managed and the following factors as relevant to each case:
- the likelihood of the employee achieving satisfactory attendance in the near future;
  - the effect of the absence on the department/organisation;
  - what action the employee has taken to improve attendance;
  - medical advice received; and
  - the requirements of the Equalities Act.
- 8.4.4** Having considered the situation, if the Director or Chief Executive concludes that the employee and the process have been managed fairly and all reasonable options have been explored, they may decide that there is no alternative but to terminate the employee's contract with the appropriate notice on the basis of medical incapability.

- 8.4.5 If the Director or Chief Executive concludes that one or more of the options have not been given sufficient consideration, then he can agree one further review period during which these options will be explored.
- 8.4.6 The main details discussed during the meeting and the outcome of the meeting will be confirmed in writing to the employee and their representative within five working days of the hearing.
- 8.4.7 An employee reserves the right of appeal against any decision that is made concerning their employment and the process for submitting an appeal is set out in Section 9.

## **9. APPEALS PROCEDURE**

- 9.1 A member of staff wishing to appeal against any formal action taken under this policy should submit a letter to the HR Manager within seven calendar days of the receipt of the formal letter confirming the action to be taken, stating the grounds of appeal. The formal action taken will remain in force unless and until it is modified as a result of the appeal.
- 9.2 An Appeal Hearing is not designed to re-hear the case but to examine the grounds of appeal. The appellant must be specific about the grounds of appeal; these will effectively form the agenda for the hearing. Appeals will be raised on one of the following grounds:
- the procedure - a failure to follow procedure had a material effect on the decision;
  - the decision - the evidence did not support the conclusion reached;
  - the penalty - was too severe given the circumstances of the case;
  - new evidence - which has genuinely come to light since the first hearing.
- 9.3 Arrangements will be made for appeals to be heard as soon as reasonably practicable.
- 9.4 The appellant will be notified as soon as possible of the time, date and place of the appeal hearing with a minimum of 5 working days' notice. The appellant will be advised that he/she may be accompanied by a Trade Union representative or work colleague.
- 9.5 All parties involved in the appeal hearing should make every effort to attend. If, for 'good cause', the employee is unable to attend the hearing it will be adjourned to a later date which the employee and his/her representative (if any) will be informed of. 'Good cause' will be agreed by the HR Manager. If the employee is unable to attend the rearranged hearing for good reason, it will normally proceed in his/her absence. If the employee was due to be accompanied, then there would be the opportunity for their representative to present the employee's case on his/her behalf. Any submission by the employee or their representative in writing will be considered.
- 9.6 Where the trade union representative or colleague cannot for good reason attend the appeal hearing then the hearing will be re-arranged to another date/time that they, or another suitable representative, can attend.
- 9.7 The appeal will either be heard by the Director or Chief Executive who has not previously been involved in the case. A representative from the HR team will be present at the hearing to provide professional HR advice. The procedure for conducting an appeal is set out in Appendix 6.

- 9.8 Where the appeal is upheld, the formal action specified will no longer be applied. Where an appeal against dismissal is upheld, the member of staff shall be paid in full for the period from the date of dismissal and continuity of service will be maintained.
- 9.9 If the appeal against dismissal is not upheld, then the period of notice will begin from the date of the original decision to dismiss.
- 9.10 The result of the appeal will normally be notified to the appellant orally on the day of the appeal hearing and in writing within 5 working days of the hearing. A copy will also be sent to any nominated representative.
- 9.11 The decision taken at the appeal will be final.

## **10. CONTACT DURING ABSENCE**

- 10.1** The Council has a duty of care with regard to employees' health and wellbeing whether they are experiencing a period of long-term or short-term absence. In addition, the Council has a responsibility to ensure the provision of an efficient service and must, therefore, make alternative arrangements to minimise the impact of any absence. For these reasons, managers will keep in regular and reasonable contact with employees throughout periods of absence from work.
- 10.2** The method and frequency of this contact will depend on the individual's particular circumstances, but may be by telephone, in writing or through meetings at mutually agreed locations.
- 10.3** By keeping in contact with employees, they will be kept up-to-date with changes at the Council and will have the opportunity to discuss any concerns they may have.
- 10.4** Equally, employees are encouraged to maintain informal contact, e.g. if able, employees may wish to arrange with their line manager to visit colleagues in the workplace during a period of extended absence.
- 10.5** Where an employee's absence is unauthorised and they have failed to follow the absence reporting procedure, managers will make reasonable attempts to contact the employee, including use of emergency contacts (held by HR).

## **11. MANAGING STRESS IN THE WORKPLACE**

### **11.1 What is Stress?**

- 11.1.1** The Health & Safety Executive (HSE) defines stress as “The adverse reaction people have to excessive pressures or other types of demand placed on them.” Stress is a natural reaction to excessive demand or pressure. Our bodies are well adapted to cope with short-term stress, but if pressure is prolonged, too frequent or out of our control, the stress reactions in our body can become chronic and can lead to ill-health.
- 11.1.2** “Stressors” such as excessive workload, long hours, not having the requisite skills to undertake a task, lack of support, strained relationships or impossible targets are all health hazards. However, every job brings its own pressures and demands; these are an unavoidable part of working life.
- 11.1.3** Some pressure can be a good thing, keeping staff motivated and providing a sense of achievement. However, people’s ability to deal with stress is not limitless, and stress occurs when people become emotionally and/or physically distressed. Stress is a result of the way a person perceives and reacts to pressures and demands.
- 11.1.4** All employees of the Council have a responsibility for the health and wellbeing of themselves and their colleagues. By working together each person can help to promote and maintain health and wellbeing and prevent stress at work. Individual roles and responsibilities for managing work-related stress are set out in Section 2.

### **11.2 Causes of Stress**

- 11.2.1** The HSE has identified six categories of stressors, i.e. the factors that cause stress related illness, and these are as follows:
- (1) Demands** – poorly designed and managed workloads, work scheduling, work organisation and physical environment.
  - (2) Control** - lack of sense of control over job design and workload.
  - (3) Support**– lack of appropriate proactive and reactive support, lack of access to training, and poorly matched skills to job role.
  - (4) Relationships** – breakdown in workplace relationships, poorly managed conflict, bullying, harassment, discrimination and personality clashes.
  - (5) Role** – existence of role conflict, e.g. incompatible job demands, job image and status incongruity. Inappropriate levels of responsibility.
  - (6) Change** – lack of planned strategy for change, poorly designed and managed strategies, lack of consultation or staff involvement, lack of appropriate support and lack of risk assessment/management.

### **11.3 Symptoms of Stress**

<b>Work Performance</b>	<b>Regression</b>	<b>Withdrawal</b>
Declining/inconsistent performance Uncharacteristic errors Loss of control over work Indecision Lapses in memory Increased time at work Lack of holiday planning/usage Difficulty concentrating	Crying Arguments Undue sensitivity Irritability/moodiness Over-reaction to problems Personality clashes Sulking Immature behaviour	Arriving late to work Leaving early Extended lunches Absenteeism Resigned attitude Reduced social contact Evasiveness
<b>Aggressive Behaviour</b>	<b>Other Behaviours</b>	<b>Physical Signs</b>
Malicious gossip Criticism of others Vandalism Shouting Bullying or harassment Poor employee relations Temper outbursts	Out of character behaviour Difficulty in relaxing Increased consumption of alcohol Increased smoking Lack of interest in appearance/hygiene Accidents at home or work Unnecessary risk taking	Nervous stumbling speech Sweating Tiredness/lethargy Upset stomach Tension headaches Hand tremor Rapid weight gain/loss Constantly feeling cold Muscle tension

- 11.3.1** Without an effective assessment of the causes of stress at work, and interventions to root out the key problem, short-term symptoms can develop into more serious long-term ill-health conditions, including: Heart disease, Heart attack, Stroke, Hypertension, Chronic Anxiety, Depression, Mental breakdown, Suicide, Alcohol/substance misuse, Social isolation, Diarrhoea, Vomiting, Peptic ulcers, Lowered resistance to infections, Chronic asthma, Chronic dermatitis.

### **11.4 Management Action to Control Stress**

- 11.4.1** Line managers have a critical role in maintaining employee health and well-being and minimising the likelihood of stressful circumstances and situations arising for their staff. Whilst it is not expected for managers to be experts in the subject of stress, it is advantageous for them to be vigilant to the possibility that employees may become vulnerable to stress.

**11.4.2** Symptoms may be due to factors other than work related stress and the employee's manager needs to consider the context and overall environment in which the symptoms appear. Where such problems manifest themselves at work, the onus is on managers to initiate action to discuss the employee's symptoms, with a view to offering support.

**11.4.3** Examples of management action to control stress include:-

**(a) Provide Training and Support**

Training implications should be discussed with those employees who are promoted, transferred or re-deployed to a different job or simply assume new responsibilities. In addition to training, employees also need more general management support and recognition if they are to perform their jobs to an acceptable standard. If, for example, an employee has not been fully and fairly briefed about the responsibilities of their job and given sufficient authority, control and the tools to do that job, this lack of support may cause stress and lead to unsatisfactory job performance.

**(b) Develop Positive Leadership Behaviour**

Managers have a significant impact on the frequency, intensity, and duration of any stressors. The influence comes from both personal attributes and their position within the organisation. Newly promoted managers need to receive training in undertaking their new roles and responsibilities. This training should enable the Council to set clear standards for all those who hold managerial positions and to develop consistent management responses across the organisation.

**(c) Address Stress in Individuals**

If, despite preventative measures being in place, a vulnerable employee begins to suffer from workplace stress, the Council will:

- take a proactive approach;
- adopt a supportive stance;
- take whatever steps are possible and practicable to make changes to the factors in the workplace which are causing stress.

**(d) Take the Initiative in Approaching the Employee**

Where it becomes evident that a vulnerable employee is suffering from stress at work the responsibility lies with the manager to initiate action to discuss the problem, with a view to offering support where possible. Whenever an employee's symptoms of stress impinge on their job performance, conduct or welfare at work, the problem becomes a management issue. Many employees may be



reluctant to admit to their manager that they are suffering from stress. They may be embarrassed that they are unable to cope with the demands being placed on them at work.

Managers need to be able to identify potential stress-related symptoms and encourage awareness and openness so that stress can be addressed proactively.

**(e) Adopt a Supportive Approach**

An employee who is suffering from work place stress will inevitably feel anxious, worried and distressed by their symptoms. The manager should be supportive and empathetic so that the problem can be tackled in a positive way. Without this approach it is unlikely that the employee will be willing to discuss the problem. The employee must be made to feel comfortable in discussing their stress with their manager, with a view to finding ways of removing or reducing the factors causing it.

On occasions it may be preferable for the employee to make the first approach with someone other than their line manager. In these circumstances employees should discuss the issue with another member of management and/or a member of the HR section and/or a union representative.

- 11.4.4** In consultation with HR, managers should keep good records of their interactions and interventions with employees who are suffering from stress to demonstrate that they are taking the issue seriously and are taking the necessary action to address the problem with continuing interest and concern for the employee's well being. Copies of correspondence (including letters and e-mails) that have been sent or received should be kept confidentially on the employee's HR file.

**11.5 Absence Due to Stress**

- 11.5.1** Ill health resulting from stress caused at work has to be treated in the same way as ill health due to physical causes in the workplace. This means that the Council has a legal duty to take reasonable care to ensure that health is not put at risk through excessive and sustained levels of stress arising from the way work is organised, or from the day-to-day demands placed on their workforce.
- 11.5.2** All staff have an individual responsibility to minimise the risk of any kind of harm to themselves and their colleagues and to co-operate with the Council in its efforts to manage work-related stress.

## **12. OCCUPATIONAL HEALTH REFERRAL**

- 12.1** In discussion with an individual's line manager, a member of the HR team can initiate an occupational health assessment for an employee if they have periods of frequent short-term absence or a health problem impacting on their ability to carry out their role, or at any stage during a period of long-term absence.
- 12.2** Appointments are made with the Council's Occupational Health provider, Oh Occupational Health and Wellbeing, using the Management Referral Form.
- 12.3** The purpose of the referral will be to seek guidance on the following (where relevant):
- Whether or not the employee is suffering from a health problem which will have an impact upon their fitness to carry out their duties.
  - The likely duration of any period of absence or, if it is not possible to be precise about this, the minimum likely period of absence.
  - Where the employee becomes fit to work, whether it will be on return to full duties or whether limitations should apply.
  - If limitations will apply, whether these limitations are likely to be temporary or permanent.
  - What steps could be taken to assist with an individual's return to work, e.g. a period of part time work.
  - If an individual will not be fit again for normal duties, the nature of other types of duties that they would be fit enough to do.
  - Whether retirement on the grounds of ill health is recommended.
  - The likelihood of ongoing episodes of sickness absences.
  - Whether the employee's health problem may in any way be related to their duties.
  - Whether the employee has a disability under the terms of the Equality Act 2010.
- 12.4** An occupational health referral can include obtaining a report from the employee's GP and/or Specialist. This information will only be released with the employee's informed consent and in line with the Access to Medical Reports Act.
- 12.5** Managers aim to support and manage employees who are off sick by making informed decisions. If an employee chooses not to participate in an occupational health referral, their line manager and HR will continue to monitor the employee's attendance as normal. If the employee's attendance becomes problematic, this will be managed in line with either the Council's short-term (section 7.3) or long-term (section 8.3) sickness absence procedure depending upon the circumstances of the particular case. However, any decision concerning the employee's continued employment will, of necessity, be based on the limited information available at the time.

**13. ILL HEALTH DISMISSAL & ILL HEALTH PENSION**

**13.1** The option to terminate an individual's employment on the grounds of ill-health will only be considered after all options for reasonable adjustment or redeployment have been fully investigated and exhausted.

**13.2** If an employee is dismissed on ill-health grounds and is a member of the Local Government Pension Scheme (LGPS), they may be eligible for an ill-health pension if they meet the necessary criteria:

- a) **Qualifying period** – they have at least two years' LGPS membership or have transferred pension rights from another pension scheme (of any length) into the Local Government Pension Scheme.
- b) **Permanent incapacity** - their employment has been terminated on the grounds that his or her ill-health or infirmity of mind or body renders him or her permanently incapable of discharging efficiently the duties of his or her employment. 'Permanently incapable' means the employee will, more likely than not, be incapable until their normal pension age (their State Pension Age) at the earliest.
- c) **Not immediately capable of undertaking any gainful employment.** They must not immediately be capable of undertaking any gainful employment. 'Gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months.

**13.3** If the employee satisfies the above criteria, then an ill health pension is payable. The different levels of benefit are:

**Tier 1:** If the employee is unlikely to be capable of gainful employment before their Normal Pension Age, ill health benefits are based on the pension that they have already built up in their pension account at their date of leaving the Scheme plus the pension that they would have built up, calculated on assumed pensionable pay, had they been in the main section of the Scheme until they reached their Normal Pension Age.

**Tier 2:** If the employee is unlikely to be capable of gainful employment within 3 years of leaving, but are likely to be capable of undertaking such employment before their Normal Pension Age, ill health benefits are based on the pension that they have already built up in their pension account at their date of leaving the Scheme plus 25% of the pension that they would have built up calculated on assumed pensionable pay, had they been in the main section of the Scheme until they reached their Normal Pension Age.

**Tier 3:** If the employee is likely to be capable of gainful employment within 3 years of leaving, or before their Normal Pension Age if

earlier, ill health benefits are based on the pension that they have already built up in their pension account at leaving. Payment of these benefits will be stopped after 3 years, or earlier if they are in gainful employment or become capable of such employment, provided they have not reached their Normal Pension Age by then. If the payment is stopped it will normally become payable again from their Normal Pension Age but there are provisions to allow it to be paid earlier.

- 13.4 The test for permanent incapacity is based on the employee's ability to undertake the duties of their current employment. If the employee has more than one contract of employment, separate opinions must be made for each post where ill health retirement is being considered. It is quite possible for an employee in more than one post to satisfy for one, but not the other.
- 13.5 The Local Government Pension Scheme (LGPS) requires that the Council's decision is guided by an independent doctor who will make an assessment based on the eligibility criteria set out in 13.2. To facilitate this process, the Council will refer an employee to the independent doctor, providing details of the individual's condition as collected by the Council's occupational health physician (if this has been done).
- 13.6 The independent doctor will review the information and:
- decide that he/she has enough information to make a decision; or
  - ask to see the employee; and/or
  - ask for further information from the employee's GP or specialist (subject to their consent).
- 13.7 Once the doctor has all of the information needed he/she will make a decision as to whether, in his/her professional judgement an employee qualifies for an ill-health pension under the LGPS. The doctor will sign the certificate based on the knowledge available at that time. If the doctor does believe that an employee meets the eligibility criteria, then the doctor will need to give their opinion as to which tier of ill-health pension the individual would qualify for. Once this decision is made, the independent doctor will inform the employee and the Council of the outcome by email.
- 13.8 Importantly it is the Council's responsibility to decide which tier the employee falls into not the independent doctor. This is the most difficult part of the process (especially for younger people and those where treatment options are still being pursued) and requires the Council to ensure that ill-health pension decisions are made based on all the information available.

## **14. SPECIAL CIRCUMSTANCES**

### **14.1 Disability and Sickness Absence**

- 14.1.1** The Equality Act (2010) makes it unlawful to discriminate against disabled people in employment. The Act defines a disabled person as somebody who has “a physical or mental impairment which has a substantial and long term adverse effect on the person’s ability to carry out normal day-to-day activities.” This is meant to be a fairly wide definition and includes:

Physical Impairment	This includes weakening or adverse changes of a part of the body caused through illness, by accident or from birth. For example, amongst many other situations, blindness, deafness, heart disease, the paralysis of a limb or severe disfigurement.
Mental Impairment	This can include learning disabilities and all recognised mental illnesses.
Substantial	This does not have to be severe, but is more than minor or trivial.
Long term adverse effect	That has lasted, or is likely to last, more than 12 months.
A normal day-to-day activity	That is, one that affects one of the following: <ul style="list-style-type: none"><li>▪ Mobility;</li><li>▪ Manual dexterity;</li><li>▪ Physical coordination;</li><li>▪ Continence;</li><li>▪ Ability to lift, carry or move everyday objects;</li><li>▪ Speech, hearing or eyesight;</li><li>▪ Memory or ability to concentrate, learn or understand;</li><li>▪ Perception of the risk of physical danger.</li></ul>

- 14.1.2** The Council is legally responsible for ensuring that discrimination does not occur in the workplace. This includes the need to make reasonable adjustments for people with disabilities. Reasonable adjustments while in employment can include:

- Giving or arranging training and equipment;
- Providing a reader or interpreter;
- Providing supervision;
- Acquiring or modifying equipment;
- Modifying instructions or reference manuals;
- Altering working hours;
- Allocating some of the disabled person’s duties to another person;
- Transferring the disabled person to fill an existing vacancy;

- Assigning the disabled person to a different place of work;
- Allowing absence during working hours for rehabilitation assessment or treatment;
- Allowing time off for counselling sessions;
- Adjusting premises.

**14.1.3** Employees and their managers should complete the Reasonable Adjustment Request Form (Appendix 4) to ensure that all issues are considered.

**14.1.4** A number of factors influence whether it is reasonable for an employer to make changes, including:

- How much the alteration will improve the situation for the person;
- How easy it is to make the change;
- The cost of the change, financially and practically;
- Health and Safety implications;
- The impact of the change on the rest of the team; and
- The resources of the employer.

**14.1.5** The Government's Access to Work scheme provides advice, practical support and financial assistance to disabled people and employers to help to overcome work related obstacles resulting from disability.

**14.1.6** The Council recognises its responsibilities under the Equality Act and its Equality, Diversity and Inclusion Policy clearly states the aim of ensuring that no employee will be treated less favourably on the grounds of disability. As such, a reasonable and flexible approach will always be taken in the case of employees who have a health condition or a disability which causes them to have periods of sickness absence and/or means that they are temporarily or permanently unable to carry out the full duties of their job. This approach will always need to balance the needs of the individual with the needs of the organisation and service delivery. Any employee affected by such problems should liaise with their line manager and the Human Resources department.

## **14.2 Industrial Injuries or Diseases**

**14.2.1** If an employee is absent as a result of an industrial injury or disease they must report to their line manager who will alert the HR department and the Council's Health and Safety Advisor. The Council has a legal obligation to report certain industrial injuries and diseases as soon as possible after they occur under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). For further information, please refer to the Council's Health and Safety Codes of Practice.

### **14.3 Violence at Work**

- 14.3.1 Employees who are victims of assault shall be given reasonable leave of absence with pay to receive medical treatment, counselling, consult their legal advisor and appear in court, if appropriate, or to consult with their trade union representative. The amount of leave granted will be determined by the Chief Executive/ Director/Service lead, taking into account all relevant circumstances. Further information is contained in the Council's Health and Safety Codes of Practice.

### **14.4 Maternity Related Absence**

- 14.4.1 Pregnancy is not an illness, however, if an employee is absent with sickness related to the pregnancy, the matter will still need to be kept under review by their line manager. If the sickness absence becomes long term, then the Long Term Absence Procedure (Section 8) within this policy will be followed. Further information on maternity issues is contained in the Family Friendly Working Guidance.

### **14.5 Mental Health**

- 14.5.1 There are many different conditions that are recognised as mental illnesses. The more common types include:
- Depression
  - Anxiety
  - Panic attacks
  - Obsessive-compulsive disorder
  - Phobias
  - Bipolar disorder (manic depression)
  - Schizophrenia
- 14.5.2 If an employee's mental illness has a substantial, adverse and long-term effect on their ability to carry out normal day-to-day activities then they are likely to be covered by the Equality Act.

### **14.6 Domestic Difficulties**

- 14.6.1 If a member of staff is faced with absences due to domestic difficulties, alternative work options will be considered, e.g. working from home, staggered hours, alteration of work patterns. Such options will only be used to cover difficulties on a short term basis and in exceptional circumstances. Line managers should seek advice from HR before flexible work arrangements are discussed with the employee and any agreements reached will be confirmed in writing and a record kept on file.

## **14.7 Terminal Illness**

- 14.7.1** There are occasions where an employee with a terminal illness wishes to be dismissed and may be eligible for early release of pension benefits and therefore there maybe some discretion on application of the procedure. Managers should deal with such situations compassionately taking into account the wishes of the employee and their financial situation as well as the needs of the Council. Advice should be sought from HR in these cases.



## **15. OTHER FORMS OF ABSENCE**

Employees are of course absent from work for other reasons. Outlined below are general guidelines on how other forms of absence/leave should be handled.

### **15.1 Public and Judicial Service and Duties**

Where unpaid leave has been authorised for a member of staff to undertake public and judicial services and duties, the employee's Service lead will be required to notify payroll and HR so that the appropriate deductions can be made from the employee's salary. This time away from work will need to be recorded as unpaid special leave.

#### **a) Public Duties**

Employees holding certain public positions are entitled to reasonable **unpaid** time off to perform their duties. Find a complete list of those who are covered by the provisions here: [time off for public duties](#)

#### **b) Jury Service**

Jury service is a public duty. Unless someone is disqualified, has the right to be excused or has a valid reason for discretionary excusal then they must serve. **Paid** leave of absence will be granted for employees undertaking jury service. Courts can pay for loss of earnings, travel costs and a subsistence rate during jury service. If an employee (as the juror) receives any allowance other than for expenses, then it should be reimbursed to the Council.

#### **c) Magistrate Duty**

Employees who are, or who wish to become, magistrates will be permitted a minimum of 13 days **unpaid** leave per year for magistrate service to meet the minimum sitting requirement required for magistrates. This will be in addition to the employees contractual leave entitlement.

Where needed, time which exceeds the minimum sitting requirement will be granted on the same unpaid basis, provided that the needs of the Council allow it.

The scheduling of leave for the purpose of magistrate service will be agreed between the employee and their line manager, having regard to the needs of the Council and the occasions on which the employee is required to sit in court.

d) Armed Forces ('Reservists')

Volunteer Reservists are called out to supplement the UK Armed Forces whenever operational demands require it. The Volunteer Reserve Forces (VRF) consist of the Maritime Reserve, made up of the Royal Naval Reserve (RNR) and the Royal Marines Reserve (RMR); the Territorial Army (TA), and the Royal Air Force Reserves.

Reservists are committed to undergoing military training throughout the year. The main annual training commitment is a two-week training camp.

Employees who are, or who wish to become, Reservists will be permitted a minimum of 10 days **unpaid** leave per year to attend the training camp. This will be in addition to the employees contractual leave entitlement.

Where needed, additional time to attend training which exceeds the annual training camp will be granted on the same unpaid basis, provided that the needs of the Council allow it.

The employee will notify their line manager of the annual training dates as soon as they become available.

In the event of voluntary or compulsory mobilisation (i.e. calling Reservists into full-time service with the Regular forces in order to make them available for military operations), the employee must notify their service lead as soon as possible as employer's consent is required. Whilst there is no statutory requirement for warning prior to mobilisation, it is expected that the Reservists and employers should have at least two weeks' notice. For High Readiness Reserve a minimum of seven days notice would be given.

Employers may seek exemption from, or deferral of, mobilisation if it is thought that the loss of the employee will cause serious harm to the business. However, financial assistance may be available to cover replacement and retraining costs.

All Mobilised Reservists have the right to return to the same job or to a "job of the same kind" (i.e. on no less favourable terms and conditions), depending on the timescale involved and reasonableness and the Reservist providing the prescribed twenty one days' written notice of the date he/she intends to return to work.

## **15.2 Work and Families**

Please refer to the Council's Guidance on Family Friendly Working for further information on maternity leave, adoption leave, antenatal care, Keeping in

Touch (KIT) days, maternity support leave, paternity leave, parental leave and shared parental leave, flexible working and time off for dependents.

### **15.3 Special Leave Requests**

Additional leave may be granted in special circumstances at the discretion of the Service lead. Outlined below is general guidance on special leave.

#### **a) Time Off for Medical Screening**

Necessary paid time off will be granted for the purpose of medical screening.

#### **b) Bereavement**

In cases of bereavement all employees will be granted 1 day's compassionate leave to attend the funeral of a close relative (e.g. spouse, partner, children, parents, grandparents) plus up to a further 5 days compassionate leave.

Service Leads may award additional leave in the case of bereavement depending on the individual circumstances and the employee's religion or beliefs in consultation with the HR department.

#### **c) Compassionate Leave**

Compassionate leave may be granted in circumstances other than bereavement, such as a domestic disaster like a house-fire or the illness of a close relative. In these circumstances, it is suggested that managers should not normally grant more than 5 days paid compassionate leave. This compassionate leave provision will usually supersede what an employee is entitled to under the 'Time Off for Dependents' provisions. Requests for compassionate leave should be made (preferably) in writing to the employee's Service lead. The Service lead will respond (in consultation with HR) to the request within 5 working days.

#### **d) Study Leave**

Half a day paid study leave per exam for revision is allowed. Paid special leave may also be granted to attend award ceremonies for post-entry training and for Professional Institute duties.

#### **e) Medical & Dental Appointments**

The Council's flexi scheme allows one hour to be taken for medical and dental appointments, including Doctors, Dentists, Opticians and Physiotherapists etc.

f) Hospital Appointments

Where staff have been referred to hospital to see a Specialist/Consultant, paid leave will be granted for the actual time to attend the appointment and return to work. However, when making appointments, staff should attempt to make them at either the beginning or end of the day, or outside working hours (e.g. those who work part time/on a rota), to reduce disruption to services.

The employee must request the leave in ESS under: *Absence - Add Other*, and select 'Hospital Appointment Paid' from the drop down menu. The employee must attach a copy of the appointment letter or other document confirming the appointment.

g) Other

Unpaid leave for other reasons can be considered if an individual's annual leave entitlement has been exhausted. The employee must request the leave in ESS under: *Absence - Add Other*, and select 'Un-Paid Leave' from the drop down menu. The request will be sent to the line manager for primary approval and then the HR Manager for secondary approval.

**Any requests for special leave need to be agreed with the employee's Service lead and HR.**

## **16. GENERAL ISSUES**

### **16.1 Occupational Sick Pay**

- 16.1.1 The Council applies the scheme agreed by the National Joint Council for Local Government Services. Under the scheme, employees are entitled to receive sick pay for the following periods:

<b>Length of Continuous Service</b>	<b>Sick Pay Entitlement</b>
During 1 <sup>st</sup> Year of Service	1 month's full pay and, after completing 4 months service, 2 month's half pay
During 2 <sup>nd</sup> Year of Service	2 months full pay and 2 months half pay
During 3 <sup>rd</sup> Year of Service	4 months full pay and 4 months half pay
During 4 <sup>th</sup> and 5 <sup>th</sup> Year of Service	5 months full pay and 5 months half pay
After 5 Years Service	6 months full pay and 6 months half pay

- 16.1.2 Occupational Sick Pay will normally be paid on submission of either self-certificates or medical certificates.
- 16.1.3 Employees will be informed in writing by Payroll, when their Occupational Sick Pay is reduced to half pay and when it expires.
- 16.1.4 Any abuse of the sick pay provisions will be dealt with in accordance with the Council's Disciplinary Policy & Procedure.

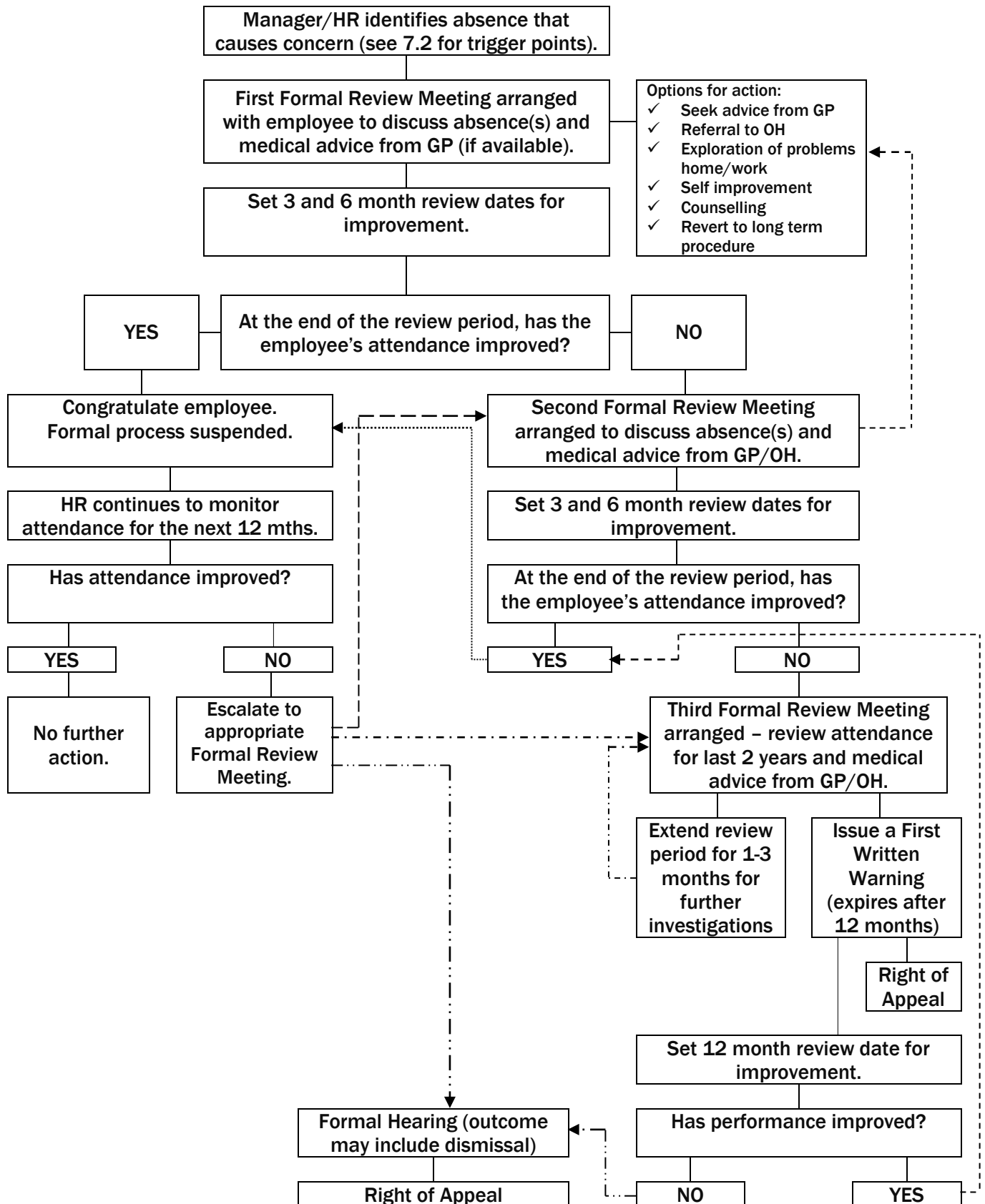
### **16.2 Annual Leave/TOIL/Flexi and Sickness Absence**

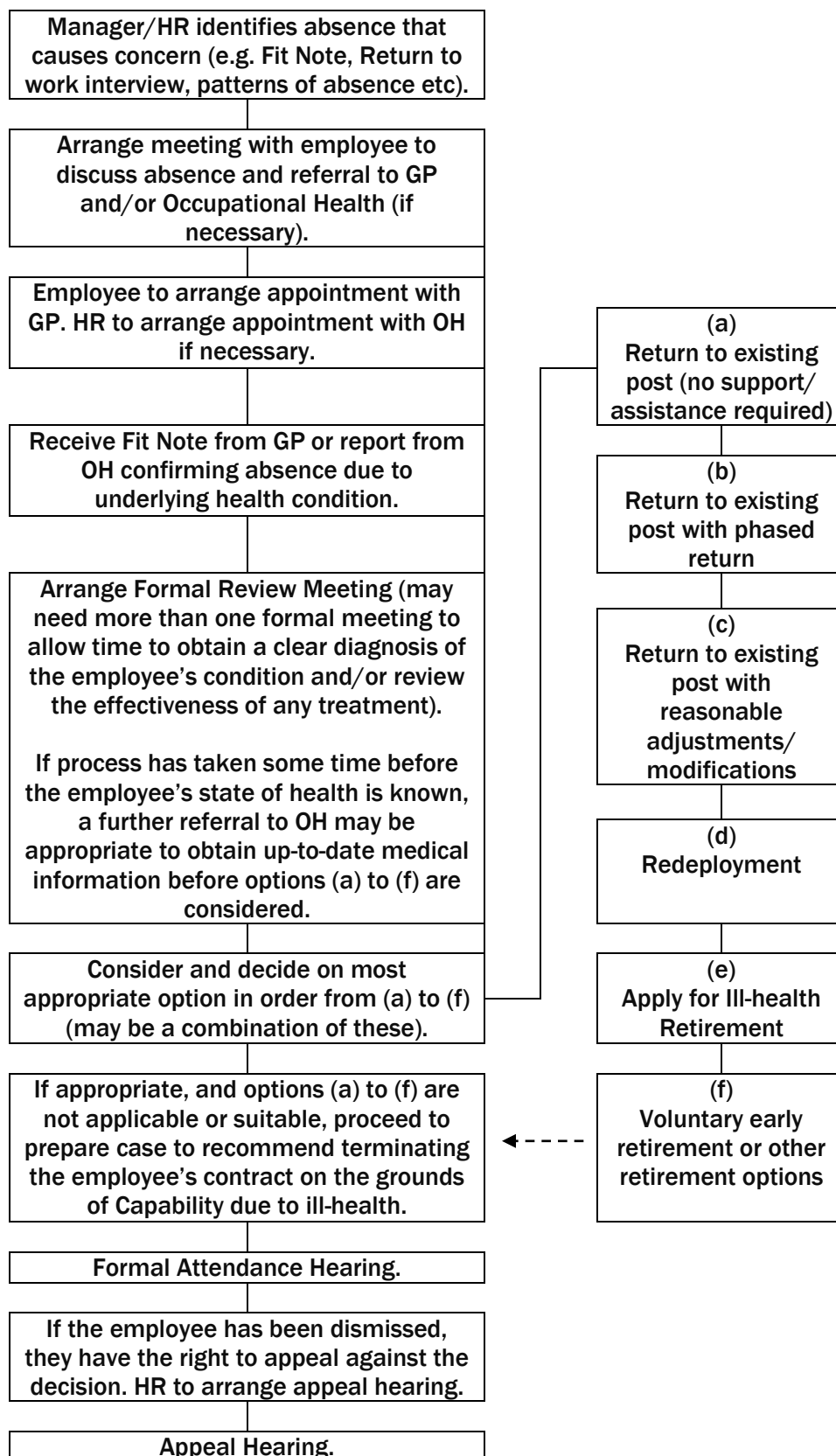
- 16.2.1 A member of staff who is sick during annual leave, TOIL or flexi leave (for up to 7 days) cannot automatically convert the leave to sick leave.
- 16.2.2 A member of staff who is sick during annual leave (for 8 days or more), and is covered by a medical certificate from their GP, can apply to have the leave converted to sick leave. This can only be achieved when a medical certificate is provided to cover the period claimed.
- 16.2.3 A member of staff on long term sickness, who has not been able to use their holiday, can carry it over. Employees on long-term sick leave can carry over 4 weeks' unused holiday. This holiday must be used within 18 months from the date it is carried over.

### **16.3 Essential User Allowance and Sickness Absence**

- 16.3.1** If an employee is absent through illness and in receipt of an essential user allowance, Payroll will pay the allowance for the remainder of the month in which they became absent and for a further three months. Thereafter, the allowance will be paid at 50% for a further three months, and will then cease for the duration of the absence.

**APPENDIX 1 – Flow Chart for Managing Sickness Absence (WITH NO underlying health condition)**



**APPENDIX 2 – Flow Chart for Managing Sickness Absence (WITH an underlying health condition)**



**APPENDIX 3****PHASED RETURN TO WORK FORM**

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_

Week	Week Commencing	Pattern of Work	Hours Worked	Hours Sick	Bank Holidays
1		Monday:			
		Tuesday:			
		Wednesday:			
		Thursday:			
		Friday:			
		TOTAL:			

Week	Week Commencing	Pattern of Work	Hours Worked	Hours Sick	Bank Holidays
2		Monday:			
		Tuesday:			
		Wednesday:			
		Thursday:			
		Friday:			
		TOTAL:			

Week	Week Commencing	Pattern of Work	Hours Worked	Hours Sick	Bank Holidays
3		Monday:			
		Tuesday:			
		Wednesday:			
		Thursday:			
		Friday:			
		TOTAL:			

Week	Week Commencing	Pattern of Work	Hours Worked	Hours Sick	Bank Holidays
4		Monday:			
		Tuesday:			
		Wednesday:			
		Thursday:			
		Friday:			
		TOTAL:			

Week	Week Commencing	Pattern of Work	Hours Worked	Hours Sick	Bank Holidays
5		Monday:			
		Tuesday:			
		Wednesday:			
		Thursday:			
		Friday:			
		TOTAL:			

Please sign to confirm your agreement with the phased return schedule proposed:

Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Line Manager: \_\_\_\_\_ Date: \_\_\_\_\_

**APPENDIX 4****REASONABLE ADJUSTMENT REQUEST FORM**

**– This form is to be completed by the employee requiring the adjustment –  
following a discussion with their manager/HR**

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_

Condition/Disability*	
How does your condition affect you?	
How long has the condition been present?	

\*You are not obliged to give details about your disability, impairment or health condition, only how it affects you at work. To enable the Council to make reasonable adjustments, it has to understand what the condition/disability is. The Council also has an obligation to ensure the health and safety of all employees, which we are only able to do when provided with full details. This information will be kept confidential and only disclosed in confidence to another individual with your prior consent, we therefore encourage employees to provide us with as much information as possible.

Date adjustment requested or identified as necessary:    

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Description of disadvantage experienced	
Nature of adjustment requested	

Has advice been sought from anyone else, e.g. Occupational Health (OH), GP/Specialist etc. (please ✓ as appropriate). If so, please indicate when this advice was received or provide a date when it is expected.

OH Advisor	<input type="checkbox"/>	Report received or expected	_____
GP/Specialist	<input type="checkbox"/>	Report received or expected	_____
Other (please specify)			

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- Please continue over page -

Summary of advice received (if applicable)

How effective will the adjustment be in preventing the disadvantage?

**To be completed by Line Manager/HR**

How practical is it to make this adjustment? For example, how long will it take to implement the adjustment, will additional training be needed for the disabled person or anyone else?

What are the financial and other costs, if any, of the adjustment?

Is financial or other assistance available to help make an adjustment?

YES ☐ NO ☐

Are the costs of the adjustment reasonable?

(taking into account recommendations from OH/GP, the financial and other resources of the Council, and any other relevant factors).

YES ☐ NO ☐

If no, please explain why?

If there is a cost implication for the adjustment, how will it be funded, i.e. relevant budget, source of funding?

- Please continue over page -

**What, if any, disruption will be caused by making the adjustment?**

**What effect, if any, will the adjustment have on other employees?**

**What adjustments have been made or are required for other employees in your team?**

**Has a risk assessment been completed for making and not making the adjustment ?**

**YES** ☐ **NO** ☐

If NO, then a risk assessment will need to be completed.

**Does the risk assessment reveal any unacceptable risks to the Health and Safety of any individual (including the employee)?**

**YES** ☐ **NO** ☐

**Manager/HR Recommendation:**

*I sign to agree that the adjustment(s) requested have been discussed and accurately recorded.*

**Employee:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Line Manager:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**HR Representative:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**APPENDIX 5****ILL-HEALTH REDEPLOYMENT FORM**

– This form is to be completed by the employee requesting redeployment following a discussion with their manager/HR –

Employee Name: \_\_\_\_\_ Job title: \_\_\_\_\_

Department: \_\_\_\_\_ Salary Grade: \_\_\_\_\_

Condition/Disability*	
How does your condition affect you?	
How long has the condition been present?	

\*You are not obliged to give details about your disability, impairment or health condition, only how it affects you in your working life. To enable the Council to consider suitable redeployment opportunities, it has to understand what the condition or disability is. The Council also has an obligation to ensure the health and safety of all employees, which we are only able to do when provided with full details. This information will be kept confidential and only disclosed in confidence to another individual with your prior consent, we therefore encourage employees to provide us with as much information as possible.

Date redeployment requested or identified as necessary: 

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Please give a brief description of your current duties/responsibilities (attach your job profile).

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Please explain the reasons why your current post is no longer suitable.

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- Please continue over page -

Has advice been sought from anyone else, e.g. Occupational Health (OH), GP/Specialist etc. (please ✓ as appropriate). If so, please indicate when this advice was received or provide a date when it is expected.

OH Advisor

☐

Report received or expected

\_\_\_\_\_

GP/Specialist

☐

Report received or expected

\_\_\_\_\_

Other (please specify)

Summary of any OH/GP advice received which requires consideration.

**Previous Employment:**

Dates		Job Title	Employer	Salary	Responsibilities
From	To				

**Training/Qualifications:**

**Skills and Abilities, e.g. IT skills, shorthand, report writing, giving presentations, training etc:**

- Please continue over page -

**Redeployment Requirements**

Number of hours that you are able to work each week?      MINIMUM  MAXIMUM

Are there any restrictions on your availability, e.g. times, days of week?      YES ☐ NO ☐

If yes, please explain what these restrictions are?

How soon could alternative work begin?     

What type of work would you consider? Particularly if different from your current job.

Your Line Manager will be asked to provide an 'internal reference' once specific vacancies have been identified.

Signed as an accurate record:

Employee: \_\_\_\_\_ Date: \_\_\_\_\_

Line Manager: \_\_\_\_\_ Date: \_\_\_\_\_

**APPENDIX 6****PROCEDURE TO BE FOLLOWED AT FORMAL ATTENDANCE HEARINGS  
(INCLUDING APPEAL HEARINGS)**

- (1) The HR Representative will introduce all parties present and explain the procedure to be followed during the hearing. If the employee is not accompanied by a trade union representative or colleague, the HR Representative will check that he/she is aware of their right to be, and whether or not he/she is happy to proceed without representation.
- (2) The Manager will present the case on behalf of the Council, setting out the employee's sickness record, the extent of any medical advice received, any support/assistance provided and action taken to date. The Manager will go through any evidence that has been gathered. If applicable, the Manager will call any witnesses at this time to present their evidence.
- (3) The employee or his/her representative has the opportunity to ask questions of the Manager and/or witnesses.
- (4) The Manager hearing the case and/or the HR Representative has the opportunity to ask questions of the Manager and/or witnesses.
- (5) The employee or his/her representative will present their case. If applicable, the employee will call any witnesses at this time to present their evidence.
- (6) The Manager has the opportunity to ask questions of the employee and/or their representative or witnesses.
- (7) The Manager hearing the case and/or the HR Representative has the opportunity to ask questions of the employee and/or their representative or witnesses.
- (8) Both sides will be given the opportunity to sum up, if they wish, with the Manager first.
- (9) The Manager, the employee and his/her representative will withdraw whilst the Manager hearing the case considers all of the evidence. The HR Representative will be present to offer advice/guidance.
- (10) The Manager hearing the case may recall both parties to clarify points. Even if the point of clarity only concerns one party, both parties will be asked to return.
- (11) If possible, the Manager hearing the case will give the decision at the time by reconvening the hearing but, if further consideration is necessary (e.g. if clarification on medical advice is required), the decision will be given within five working days.
- (12) **(For Attendance Hearings)** The Manager hearing the case will explain the employee's right of appeal.  
**(For Attendance Appeal Hearings)** The Manager hearing the case will explain that the decision of the appeal hearing is final, and that the employee has no further internal right of appeal.
- (13) Written confirmation of the oral decision will be given within five working days.

**Notes:**

The manager, the employee or his/her representative may request an adjournment at any time. Any adjournment will normally be for a stated period.