

**North East Derbyshire District Council****Council****5 January 2015****Review of Sickness Absence Management Policy****Report No NB/03/15/SG of Councillor N Barker, Portfolio Holder with Responsibility for Human Resources, Training and Member Development**

This report is public

**Purpose of the Report**

- That Council agree the adoption of the attached draft Sickness Absence Management Policy.

**1 Report Details**

- 1.1 Bolsover District Council and North East Derbyshire District Council each have their own Sickness Absence Management Policies and Procedures. These policies have been reviewed and brought together into one document, to assist managers to effectively manage sickness absence and to facilitate consistency of approach. The draft policy is attached at **Appendix 1**.
- 1.2 Several of the existing documents cover advice and guidance at both Councils and it is proposed to combine these into a separate procedural document for managers which will not form part of the Council Policy.

**2 Conclusions and Reasons for Recommendation**

- 2.1 The purpose of the report is to ask Cabinet to recommend to Council the new draft Sickness Absence Management Policy and seek agreement that the Policy should be adopted by the Council.
- 2.2 With the formation of the Strategic Alliance, Bolsover District Council and North East Derbyshire District Council are working closer together. The formation of joint services working on behalf of both Councils means that several managers currently have to apply a different sickness absence management policy at each respective Council.
- 2.3 The adoption of a policy that is applicable at both Bolsover District Council and North East Derbyshire District Council would provide an overall framework for managing sickness absence and facilitate consistency and understanding of the processes being followed by both employees and managers. HR will continue to support and advise with all aspects of the process.

### **3 Consultation and Equality Impact**

3.1 Discussions on the draft policy have already taken place with senior managers and with trade union representatives. The draft policy was supported at JCG on 22 October 2014 with the following two agreed amendments:

- Paragraph 1.9, second paragraph, page 6 – the deletion of the word “will” and its replacement with the word “may” in the first sentence.
- Part 2 – Sickness Capability, page 14, paragraph 6.5 between items (d) and (e), the existing wording to be replaced with the following “*if an employee should fall under the provisions of the Equality Act 2010 in terms of disability, then the employee may be entitled to reasonable adjustments to enable them to return to, or remain at work*”.

### **4 Alternative Options and Reasons for Rejection**

4.1 None arising directly from this report

### **5 Implications**

#### **5.1 Finance and Risk Implications**

5.1.1 None arising directly from this report.

#### **5.2 Legal Implications including Data Protection**

5.2.1 Full account has been taken of relevant legislation and case law.

#### **5.3 Human Resources Implications**

5.3.1 This Policy is being considered by both Bolsover District Council and North East Derbyshire District Council for application to employees at both locations. This will facilitate consistency of approach by joint senior managers.

### **6 Recommendation**

6.1 That Council approve the adoption of the attached Sickness Absence Management Policy.

## 7 Decision Information

<b>Is the decision a Key Decision?</b> (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	N/A
<b>District Wards Affected</b>	N/A
<b>Links to Corporate Plan priorities or Policy Framework</b>	.

## 8 Document Information

Appendix No	Title
1	Draft Sickness Absence Management Policy
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
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# **Appendix 1**

## **SICKNESS ABSENCE MANAGEMENT POLICY**

### **INTRODUCTION**

This policy outlines the steps to be followed if an employee is absent due to ill-health.

All employees feel the impact of ill health and sickness absence. It can significantly affect how teams and services perform. This in turn affects the level and quality of service provided to our customers.

The Council is concerned for the safety and welfare of its employees and seeks to ensure that absence is handled in a fair and positive way. The Council's policy is designed to achieve an improvement in overall employee attendance levels and to help employees overcome ill health difficulties by providing advice and support whenever necessary.

**In return the Council expects its employees to respond in the following ways:**

- a) To care for their health and to seek medical help whenever appropriate**
- b) To attend for work whenever they are able to do so**
- c) Not to be involved in activities whilst on sick leave which may inhibit recovery and return to work**
- d) Co-operate fully with the application of this policy**
- e) When absent, advise their Line Manager/Supervisor in accordance with this policy**
- f) To use their own time (i.e. annual leave, flexi leave, TOIL etc) for elective surgery (i.e. surgery that is not considered to be medically necessary such as cosmetic surgery) except in cases where this is linked to a serious medical condition.**

Throughout the formal stages of the policy, employees have the right to be accompanied by their Trade Union representative, colleague or friend. Throughout the informal stages (e.g. return to work meeting, Occupational Health referral etc) whilst there is no entitlement in law, sympathetic consideration will be given to requests to be accompanied, and each case will be considered on its merits.

Employees should note in the event of unreasonable failure to co-operate with the terms of this policy including attending occupational health appointments and sickness capability meetings, sick pay may be withheld in respect of the period of the employee has failed to co-operate with the Council's policy.

## PART ONE – SICKNESS ABSENCE REPORTING

This is the process to be followed if an employee is unable to attend work due to ill health. It applies to all employees of the Council, including those on temporary contracts and casual workers.

### 1 Employee Notification Policy

#### 1.1 First day of absence

**When an employee is unable to attend work the employee (or, in the case of severe incapacity, the person acting on their behalf) must notify their immediate Line Manager/Supervisor/ or nominated officer before 9.00 am on the first day of absence. This notification must be via a telephone call.**

Street Scene employees, should notify their **Supervisor or nominated officer** as soon as possible but no later than the start of their shift to enable alternative arrangements to be made.

**Those employees who work fixed patterns or shifts** should normally report to the **nominated officer** at least 30 minutes before the commencement of their shift – or in the case of early morning shifts as soon as possible and in any event no later than 15 minutes after the commencement of the shift.

It is important that contact is made with the employee's Line Manager/ Supervisor in the first instance. If the Line Manager/Supervisor is not available contact should be with another nominated officer.

Services should make employees aware of individual reporting lines.

#### 1.2 The Line Manager/Supervisor/nominated officer should obtain the following information:

- a) Employee's name
- b) Section in which employee works
- c) Reason for absence.  
(This should be the general nature of any illness, the first day of sickness and whether the absence is work related or due an industrial injury at work, or whether the absence is disability related).
- d) Expected date and time of return to work if known
- e) If any assistance or advice is required by the employee
- f) Any outstanding work commitments
- g) Who reported the absence
- h) Whether or not the GP has been contacted

In addition, the employee should be advised that a further call is necessary on the fourth calendar day.

#### 1.3 Upon initial notification of absence the Line Manager/Supervisor or person receiving the call must complete a Sickness Absence Form SF1. (BDC ONLY, also complete the weekly absence return and ensure TMS is updated accordingly).

**1.4 Fourth day of absence (calendar days)**

**If the absence continues after three calendar days and the employee has not provided further notification, then on the fourth day (if part-time the fourth calendar day) the employee, (or, in the case of severe incapacity, the person acting on their behalf), must telephone the Line Manager/Supervisor and give details of the general nature of illness and the expected date of return. The times by which notification must be made are as listed in 1.1 above.**

**1.5 Eighth day of absence (calendar days) and ongoing**

**If the absence continues beyond seven calendar days a Doctor's Statement of Fitness for Work (see Section 2) must be provided to the Council by not later than the eighth calendar day, or posted before the eighth calendar day. Employees are advised to make early contact with their Doctor if they have reason to believe their absence may go on for longer than seven calendar days to avoid problems booking appointments.**

**1.6 On receipt of the Statement of Fitness for Work note, if the Doctor has indicated that the employee may be fit for work subject to certain conditions, the Line Manager/Supervisor will arrange to see the employee at the earliest opportunity to discuss a way forward. Advice should be sought from the HR & Payroll Service where appropriate.**

**1.7 One of the most important aspects of managing sickness absence is to maintain communication with absent employees and this is by definition a two way process. Managers and employees should therefore be proactive in maintaining contact during any period of sickness absence. This will help to facilitate a successful return to work. The form, or forms, of contact such as telephone or personal visits should always be agreed with the employee and must be in line with this policy.**

It will be very important the employee and line manager understand that the purpose of the contact is to keep in touch, exchange information and provide advice and support to facilitate an early return to work. Communication will be maintained using a sensitive approach to help employee's wellbeing and confidence while absent and maintain a link with work.

**1.8 Subsequent Doctor's Statements must be submitted to cover absence if it extends beyond the period covered by the initial Statement. These should be provided to the Council by no later than the day after the expiry of the previous Statement and should be sent direct to the HR and Payroll Service, who will in turn notify line managers.**

**1.9 Employees should note that in the event of late notification of sickness, late submission of fit notes or failure to co-operate with the terms of the policy, sick pay may be withheld. Doctors' notes will be not accepted retrospectively where these are more than five working days overdue. Backdated statements will not be accepted, except in exceptional circumstances and with the authorisation of the relevant Assistant Director or Director in consultation with HR & Payroll.**

Where an employee fails to follow the notification/certification requirements, sick pay may be deducted in respect of days where notification is late, or where Doctors' Statements of Fitness have not been received. In such circumstances, the Line Manager/Supervisor will have the

discretion to reinstate sick pay for the day(s) in question only where there are exceptional reasons for doing so, in consultation with advice from the HR and Payroll Service.

- 1.10 An employee must return to work as soon as they are fit to do so, in particular if they consider themselves fit to do so before the expiry of their current Fitness for Work note. Arrangements should be agreed between the employee and their Line Manager/Supervisor, and may involve the Occupational Health Service and advice from the HR and Payroll Service as appropriate.**

#### Return to Work

- 1.11 As soon as possible on the return to work the employee must complete a Self-Certification Form/Return to Work (SF2) in the presence of their Line Manager/Supervisor, who will conduct a Return to Work meeting at this point (see Section 3).**

This information is to be kept confidential by management and HR and Payroll. A copy of a Self-Certification Form/Return to Work Form SF2 will be given to the employee at the time of completion if they wish. The completed SF2 Form must be returned to HR & Payroll.

Line Managers/Supervisors/nominated officers must send an email to the Payroll inbox to notify the date of the employee's return to work immediately upon their return. Managers are requested to send a copy of this email to the employee unless it is not possible to do so, eg because the employee does not have an email account

- 1.12 If an employee knowingly submits false information in relation to their incapacity it will be treated in accordance with the Council's Disciplinary Procedure.**
- 1.13 If an employee returns from certificated absence for less than seven working days then this will normally be treated as a continuation of the previous absence and a Doctor's Statement will be required to cover the absence.**

## 2 Statement of Fitness for Work

- 2.1 A Statement of Fitness for Work, or Fit note, will indicate whether the employee is unfit for work, or whether they may be fit subject to certain conditions.**
- 2.2 The information on the form is advice for the employee and is not binding on the employer. There is no longer a requirement to obtain a fit to return to work note once the current Statement expires, or if the Line Manager/Supervisor and employee, with or without the involvement of Occupational Health, agree that the employee can return sooner than the expiry of the Statement.**
- 2.3 The Line Manager/Supervisor and employee must keep in regular contact throughout any period of sickness absence, (See 1.7). The employee must inform their Line Manager/Supervisor immediately if they are issued with a Statement of Fitness for Work or Fit Note.**
- 2.4 If the Statement indicates that the employee is fit for work subject to certain conditions, then a meeting will be arranged between the Line Manager/Supervisor and the employee**

to discuss the position with a view to the employee returning to work as soon as possible. In cases where the Council cannot reasonably offer the required adjustments the Statement will be treated as though the employee was declared 'not fit for work'.

### **3 Return to Work**

**3.1 The line manager must conduct a return to work meeting with the employee following EVERY absence.**

**3.2 During the meeting, the employee and line manager will complete a Self-Certification Form/Return to Work Form SF2 together. Both will sign the form and one copy will be retained by the employee if they wish. The other will be placed on the employees personal file.**

**3.3 The purpose of the meeting is:**

- (i) to identify any emerging problems that the employee may be experiencing**
- (ii) to identify any support or assistance that the Council may be able to offer as an employer to facilitate attendance at work in the future.**
- (iii) to discuss the employee's absence and to consider it in the context of other absence and an update/briefing on the service.**

### **4 Management Recording**

**4.1 Management is responsible for ensuring:**

- (i) that all employees are aware of the absence notification procedures.**
- (ii) all appropriate information and documentation is accurately completed and sent to the HR and Payroll Service in a timely manner.**

**4.2 Copies of all the documentation, including any Doctor's Statements/Fit Notes, will be retained on the employee's medical/personal file. This information is treated in the strictest confidence and retained in line with legislation.**

**4.3 Employees will have access to their own absence/medical records on written request, allowing three working days notice.**

### **5 Sickness absence and annual leave**

**5.1 To obtain reinstatement of Annual Leave due to ill-health a Statement of Fitness for Work will be required and reinstatement will be given based on the dates in the Doctor's Statement.**

**5.2 In the event that an employee is prevented from taking their annual leave owing to long term sickness and does not return to work before the end of their annual leave year, they may be entitled to carry forward some annual leave entitlement to the following year. The entitlement will be based on 20 days (including bank holidays) for the year, and any**



**annual leave/bank holidays already taken will be deducted. Line Manager/Supervisors should seek guidance from HR & Payroll on cases where the above applies.**

**5.3 If the employee does not return to work, the entitlement as calculated under the terms of 5.2 above will be paid and based on the 20 days (including bank holidays) for the year. Line Manager/Supervisors should seek guidance from HR & Payroll on cases where the above applies.**

**5.4 Where it is felt an employee is using their annual leave to mask an underlying medical condition and this is preventing the Council from providing advice and support to facilitate attendance at work the Line Manager/Supervisor will discuss this with the employee.**

## **6 Management Monitoring**

**6.1 Senior and Services Managers are responsible for managing and monitoring employees' absence in accordance with this policy. HR & Payroll will provide advice and support to managers.**

# **SICKNESS ABSENCE MANAGEMENT POLICY**

## **PART TWO - SICKNESS CAPABILITY**

### **INTRODUCTION**

This section of the policy details the Council's expectations of both managers and employees in the management of sickness absence. Its aim is to provide a framework within which managers can balance the needs of individual employees with the need to provide services.

The policy sets out how sickness levels of employees will be monitored by their managers and how medical advice should be sought where issues continue to occur. The measures contained in this policy are not intended to prohibit sickness absence or to punish staff who have time off sick. They are designed to achieve an improvement in overall employee attendance levels and to help employees overcome ill health issues by providing advice and support whenever necessary.

Wherever possible the objective will be to assist employees to return to normal attendance at work. However it is acknowledged that this will not be possible in all cases. Therefore, this capability policy sets out the processes whereby sickness issues are addressed.

Managers should always offer support, but employees must be aware that extended or recurrent short-term absence cannot be absorbed by the service and may result in dismissal on ill-health or attendance grounds.

**The issue is the level of absence experienced and not whether it is genuine.**

### **COUNCIL SICKNESS TRIGGERS**

The sickness triggers implemented by the Council to identify individual levels of sickness absence and to notify managers when further action may be beneficial, are as follows:

- a) Where there is any pattern of regular short term absence; or
- b) Four or more separate periods of absence in any rolling 12 month period; or
- c) Where there have been six days (pro-rated to hours worked) absence in any 12 month rolling period.
- d) Any ongoing absence which has lasted, or can be expected to last for four weeks or more or for any recurrent periods (which could be less than 4 weeks) associated with a serious health problem. (NB In respect of employees who work on a part-time or job-share basis the four week period would remain the same, regardless of the amount of time the employee would normally have been in attendance during that time).

This is the process to be followed if an employee is absent due to ill-health. It applies to all employees with the sole exception of employees undergoing a probationary period.

(For probationary employees please refer to the Probationary Procedure)

Line Managers/Supervisors are responsible for managing and monitoring employees' absence in accordance with this policy. Advice should be sought from the HR & Payroll Service where appropriate.

## **1 REPORTING INSTRUCTIONS AND RETURN TO WORK MEETINGS**

- 1.1 See Part One of the Sickness Absence Management Policy.

## **2 FREQUENT SHORT-TERM ABSENCES**

- 2.1 Sickness absence will normally be addressed through Part One of the Council's Sickness Absence Management Policy, for example, monitoring sickness absence and carrying out return to work meetings.
- 2.2 However, a meeting will be arranged with the employee (see Section 3) by their line manager where there is concern about an employee's level of repeated short term absences or an unacceptable level of sickness absence is identified as outlined in the sickness triggers, below:
  - a) Where there is any pattern of regular short term absence; or
  - b) Four or more separate periods of absence in any rolling 12 month period; or
  - c) Where there have been six days (pro-rated to hours worked) absence in any 12 month rolling period.
- 2.3 It should be noted that an employee's absence record will be monitored to enable managers both to identify emerging difficulties (for example where an employee has had consistent full attendance and then begins to have regular or significant absence); and to identify a fair overview of the employee's attendance and any annual patterns of absence.
- 2.4 A meeting may also take place at the line manager's discretion in other circumstances where there are reasonable grounds for review. Line Manager/Supervisors must seek guidance from HR & Payroll on cases where the above applies.
- 2.5 Where a meeting is called to discuss the outcome of a referral to the Council's Occupational Health Service, this may take place as part of, or in addition to, the meetings detailed in the following sections, dependent upon the circumstances.

## **3 First Meeting**

- 3.1 The purpose of the meeting is to encourage an open discussion between the manager and employee to facilitate attendance at work. This is in addition to any Return to Work meetings.
- 3.2 The employee will be given five working days notice of the meeting by the line manager or it can take place earlier by mutual agreement.
- 3.3 The meeting will focus on the employee's health and welfare to help facilitate attendance at work. It will identify the reasons for absence and whether or not the absences relate to a disability or any other underlying cause. Advice and support will be provided where appropriate. An outcome of the meeting may be a referral to Occupational Health.
- 3.4 It is also possible that absences relating to disability may reach the stage where it is considered that the service can no longer sustain those absences. Such a situation will also be dealt with in line with this Policy, but it will be necessary to consider carefully issues about how the individual's job is done, and whether or not reasonable adjustments would assist with attendance issues.

- 3.5 Employees should be advised that continuing absences may necessitate formal action which could include termination of employment.
- 3.6 An attendance target, based on the corporate sickness trigger levels as stated in this policy, should be set with a date for a review meeting after three months (see Section 4).
- 3.7 The content and outcome of the meeting should be confirmed in writing, normally within five working days, and a copy given to the employee with a copy for the personal file.
- 3.8 Advice should be sought from the HR and Payroll Service if necessary.

#### **4 First Review Meeting**

- 4.1 The first review meeting (see Section 3.6 above) can be brought forward at the manager's discretion. This would generally be where sickness absence had continued or other relevant changes had occurred. In this case the employee should be given five working days notice of the meeting or it can take place earlier by mutual agreement.
- 4.2 The meeting will focus on the employee's health and welfare, to review the attendance record against the target previously set and to help facilitate attendance at work. Advice and support will be provided where appropriate. An outcome of the meeting may be a referral to Occupational Health.
- 4.3 If the employee has attended an Occupational Health appointment, a meeting will take place with the employee, normally within ten working days of receipt of the report (see Section 6).
- 4.4 If the level of sickness absence has reduced, this should be positively acknowledged. It may be considered necessary to arrange a further review meeting (see Section 5) after a further three month period or sooner at the manager's discretion. This should be confirmed in writing normally within five working days.
- 4.5 If the level of sickness absence has not improved, the employee should be made aware of the effect on the service and on other colleagues of their continued high level of sickness absence. If the employee has attended an Occupational Health appointment, various options will be considered (see Section 6). In addition, the meeting may also result in an appropriate outcome (see Section 7). A date should be set for a second review meeting after three months or sooner at the manager's discretion.
- 4.6 The content and outcome of the meeting should be confirmed in writing, normally within five working days, and a copy given to the employee with a copy for the personal file.

#### **5 Second Review Meeting**

- 5.1 The second review meeting (see Section 4.5 above) can be brought forward at the manager's discretion from the original date proposed for the meeting. In this case the employee should be given five working days notice of the meeting or it can take place earlier by mutual agreement.
- 5.2 The meeting will focus on the employee's health and welfare, to review the attendance record against the target previously set at the first review and to help facilitate attendance at work. Advice and support will be provided where appropriate. An outcome of the meeting may be a referral to Occupational Health.

- 5.3 If the level of sickness absence has reduced, this should be positively acknowledged and confirmed in writing normally within five working days.
- 5.4 If the level of sickness absence has not improved, as much information as is available about the employee's attendance record and other relevant factors should be obtained. The employee should then be referred to the Council's Occupational Health Service (see Section 6), unless they have already attended such an appointment.
- 5.5 If the employee has attended an Occupational Health appointment, various options will be considered (see Section 6). In addition, the meeting may also result in an appropriate outcome such as the issuing of a first level warning, (see Section 7).
- 5.6 Further review meetings will take place where necessary to facilitate attendance at work.

## **6 REFERRAL TO COUNCIL'S OCCUPATIONAL HEALTH SERVICE**

- 6.1 Dependent upon the circumstances of each individual case, the Council will have the facility to refer the employee to the Occupational Health Service for assessment. Examples of referral circumstances could be, for example:
  - a) When there are concerns about the health and safety of the individual or others
  - b) When trigger points are reached
  - c) If it is felt that early referral would benefit the employee and the organisation, e.g. in stress cases where it has been proven statistically that early referral facilitates a speedier return to work
  - d) If information is required about the likely length of absence
  - e) After an absence of four weeks, (unless the prognosis is clear e.g. broken leg etc)
  - f) Where there is no medical evidence to support frequent self certificated absences
- 6.2 The employee has a duty to undertake appointments with the Occupational Health Service, and to give immediate notice if he/she is unable to attend. Failure to do so would normally lead to withdrawal of pay under the Sickness Payments Scheme.
- 6.3 In certain circumstances, one of the options that will be considered during the Occupational Health assessment, in consultation with the employee, may be a referral under the Leisure GP Referral Scheme. The initial consultation may take place in work time, but the employee would need to pursue any subsequent programme in their own time.
- 6.4 Following receipt of the Occupational Health report, a meeting will take place with the employee, normally within ten working days of receipt of the report. This may be part of the scheduled meetings or an additional meeting, dependent upon the circumstances and timing.
- 6.5 The report will form the basis of discussion at the meeting. One of the following options should be agreed according to the circumstances which have been identified:
  - a) Accept the position and keep it under review.
  - b) A return to work on a phased basis from a specified date.(See Section 9 below)

- c) Consider introducing modified duties and/or reduced hours for a limited period of rehabilitation, with the aim that the employee will return to the full range of duties/hours in due course. If employees reduce their hours this will result in adjusted pay. Dependent upon individual circumstances, modified duties may result in adjusted pay.
- d) Arrange alternative employment, using the Council's Redeployment Procedure, where such suitable alternative employment can be identified.

If an employee should fall under the provisions of the Equality Act 2010 in terms of disability, then the employee may be entitled to reasonable adjustments to enable them to return to, or remain at work.

- e) If termination of employment is being considered, a further meeting should be arranged with the employee and their representative to discuss this and allow the employee and their representative the opportunity to respond. (See Section 7.5)

The content and outcome of the meeting should be confirmed in writing, normally within five working days, and a copy given to the employee with a copy for the personal file.

## **7 MEETING OUTCOMES**

### **Withdrawing Overtime**

- 7.1 In the case of an employee normally required to undertake additional hours or non-contractual overtime, it may be appropriate to indicate that, as the commitment to additional hours may be affecting the employee's health, consideration will be given to withdrawing such overtime until the employee's attendance record indicates that the impact of ill health has been reduced or eliminated.

### **Formal Sickness Capability Warnings**

#### **7.2 First Level Sickness Capability Warning**

A First Level Sickness Capability Warning will normally be issued where the employee has not achieved the target set at the first review meeting (See Section 4). The warning will be confirmed in writing, and it will be made clear that failure to improve attendance may lead to termination of employment. Once an employee has been placed on a warning, meetings will take place on a regular basis to set targets for, and review, attendance. Where there has been full attendance over a period of 12 months since the warning was issued, the warning will no longer be considered as 'live'. Line Managers/Supervisors should seek guidance from HR & Payroll on cases where the above applies.

#### **7.3 Final Sickness Capability Warning**

Where there is continued failure to improve attendance and achieve targets, the employee will normally be issued a Final Sickness Capability Warning. It should be made clear that the service can no longer tolerate the high level of sickness absence and that any further failure to achieve targets will lead to termination of employment. This warning will be confirmed in writing and placed on the employee's personal file. Meetings will continue to take place on a regular basis to set targets for, and review, attendance. Line Managers/Supervisors should seek guidance from HR & Payroll on cases where the above applies.

- 7.4 These warnings will remain on the individual's file to enable an overview of the employee's attendance. However, where it is considered that a reasonable period of full attendance has

elapsed since the Final Sickness Capability Warning was issued, or there are significant mitigating circumstances to a recent period of absence, there will be the facility to reaffirm the Final Sickness Capability Warning as an alternative to termination of employment. In any event, where there has been full attendance over a period of 12 months since the warning was issued, the warning will no longer be considered as 'live', and the warning will be expunged.

## 7.5 Termination of Employment

If the employee's attendance still fails to reach the required targets, or if the outcome of discussions concerning Occupational Health Service reports results in termination of employment being one of the relevant options, then a meeting will be arranged as outlined below.

- The purpose of the meeting is to discuss the position and this will include a review of all the options available. The employee and their representative will be given the opportunity to respond. The employee will be made aware that a potential outcome of the meeting may be that the only course of action available is termination of employment on the grounds of sickness capability (as all other options have been considered.)
- The employee and their representative will be given five working days notice of the meeting and informed of the reason for the meeting.
- The meeting should be convened by the relevant Executive Director or Assistant Director and should be formal.
- The employee's Line Manager/Service Manager or Supervisor will be present.
- A Senior Officer from the HR and Payroll Service should always be present.
- A legal adviser may be present.

If the outcome is a decision to dismiss, the employee will receive:

- 1 The appropriate period of notice, or payment in lieu of notice (if appropriate).
- 2 Written notice of the reasons for their dismissal within five working days.

7.6 **Appeals** - The employee will have a right of appeal to the Council's Appeals Panel against a decision to dismiss. Please refer to the Council's Appeals Procedure.

## 8 LONG-TERM ABSENCE

- 8.1 Any ongoing absence which has lasted, or can be expected to last, for four weeks or more can generally be regarded as "long-term" or any recurrent periods (which could be less than 4 weeks) that are associated with a serious health problem. (NB In respect of employees who work on a part-time or job-share basis the four week period would remain the same, regardless of the amount of time the employee would normally have been in attendance during that time).
- 8.2 Where an employee has a physical or mental impairment which has a substantial, long-term (one year or more) adverse effect on their ability to carry out normal day-to-day activities, the provisions of the Equality Act 2010 may apply. In these circumstances the manager must



consider the need for reasonable adjustments and should seek appropriate specialist advice from the HR and Payroll Service.

- 8.3 Where an employee returns to work for less than seven calendar days and then goes off sick again, the period of absence will normally be considered to be continuous for absence management purposes.
- 8.4 One of the most important aspects of managing sickness absence is to maintain communication with absent employees and this is by definition a two way process. Managers and employees should therefore be proactive in maintaining contact during any period of sickness absence. This will help to facilitate a successful return to work. The form, or forms, of contact such as telephone or personal visits should always be agreed with the employee and must be in line with this policy.

It will be very important the employee and line manager understand that the purpose of the contact is to keep in touch, exchange information and provide advice and support to facilitate an early return to work. Communication will be maintained using a sensitive approach to help employee's wellbeing and confidence while absent and maintain a link with work.

- 8.5 At the latest, after four weeks' absence the manager will invite the employee to attend a meeting to discuss progress. At the employee's request, this meeting might take place at their home or another agreed location. Five working days notice should be given of the visit or it can take place earlier by mutual agreement. A meeting may not be necessary if, for example, a return date is already in prospect.
- 8.6 The purpose of the visit is to review the employee's health and prospects for a return to work. If there is no date for a return to work, then the employee should be advised that it may be necessary to arrange a medical referral to the Council's Occupational Health Service, (see Section 6 above).
- 8.7 The outcome of the discussion should be confirmed in writing within five days of the meeting by the manager.
- 8.8 Where an employee has a physical or mental impairment which has a substantial, long-term (one year or more) adverse effect on their ability to carry out normal day-to-day activities, the provisions of the Equality Act 2010 may apply. In these circumstances the manager must consider the need for reasonable adjustments and should seek appropriate specialist advice from the HR and Payroll Service.
- 8.9 If the employee continues to remain absent due to sickness and/or within ten working days of the receipt of the Occupational Health report, the manager should arrange a meeting with the employee (or home visit at the employee's request) to advise him/her of the content of the report, if applicable.
- 8.10 At the meeting the following options should be explored according to the circumstances which have been identified:



- a) A return to work on a specified date.
- b) A return to work on a phased basis from a specified date.(see section 9 below)
- c) A return to work at a later unspecified date following convalescence.
- d) A return to work on modified duties and/or reduced hours for a limited period of rehabilitation, with the aim that the employee will return to the full range of duties/hours in a given period. If employees reduce their hours this will result in adjusted pay. Dependent upon individual circumstances, modified duties may result in adjusted pay.
- e) The possibility of a return to work to suitable alternative employment on a permanent basis (where such suitable alternative employment can be identified). Please refer to the Authority's Redeployment Procedure.
- f) The possibility of ill-health retirement in accordance with the Local Government Pension Scheme. This option will only apply where the independent Medical Practitioner issues a Certificate of Permanent Incapacity and the employment is terminated on the grounds of permanent ill-health. (See below for policy to be followed for termination of employment on grounds of ill-health.)

8.11 In the event of the Occupational Health requesting the opportunity to review the employee's health after, for example, a meeting/ home visit should be arranged by the manager prior to elapse of the period to acquire up to date information for a second referral to Occupational Health. Within ten working days of receipt of the report, the manager should meet with the employee again to discuss its contents and consider the options (8.10 a-f).

8.12 If none of the above options available in 8.9 and 8.10 are viable, please see Section 10.

## **9. Phased Return to Work**

- 9.1 In order to facilitate a return to work following long-term sickness absence, or in certain cases dependent on the nature of the illness, e.g. stress related absence, to facilitate an early return to work before the absence becomes long-term, the Occupational Health Adviser may recommend some form of phased return to full duties and responsibilities. This could involve a return to work on modified duties, on reduced hours, on a temporary basis or working from home, or such other reasonable measure which would reduce the need for a longer period of absence, as appropriate.
- 9.2 A meeting should take place with the employee, their line manager and a representative from the HR and Payroll Service at which agreement should be reached on the terms of a Return to Work Plan.
- 9.3 The Return to Work Plan will be produced by the line manager, and will outline the terms of the phased return. It is anticipated the employee will gradually build up to a return to full duties and responsibilities, and this should be for the shortest time possible and be achieved within a four week period. Depending upon the circumstances this may be extended for a further 2 weeks maximum.
- 9.4 For this limited phased return, the employee will need to supply a 'fit to return to work' note from their GP agreeing to the terms of the phased return. This period will therefore be classed as being at work for pay purposes and the employee will be paid their normal rate of pay.
- 9.5 If the employee has difficulty in increasing their hours/attendance/workload and it becomes unlikely that a full return will be possible as planned, then the employee will need to obtain a Statement of Fitness for Work from their GP and the phased return should be terminated as soon as practicable. In addition, a referral should be made to the Occupational Health Adviser for additional advice.

## **10. Termination of Employment**

- 10.1 After considering all the options identified in 8.10 a) – f), it may be that the only course of action available is to consider the termination of employment on the grounds of sickness capability. This course of action may be considered where the Occupational Health Adviser is unable to certify the ill-health/incapacity as permanent and therefore ill-health retirement is inappropriate but also where the prognosis is difficult to determine. In reaching a decision on this course of action, the medical opinion given by the Occupational Health Adviser will be taken into account. However, managers must be aware that this is only one element and that there may be other relevant factors which should be taken into account in coming to a decision.
- 10.2 If termination of employment is being considered, a meeting will be held with the employee and their representative to discuss this and allow the employee and their representative the opportunity to respond.
- 10.3 The employee and their representative will be given five working days notice of the meeting and informed of the reason for the meeting. The employee should be made aware that a potential outcome of the meeting may be that the only course of action available is termination of their employment on the grounds of sickness capability.

10.4 The following process should always be followed:

- The purpose of the meeting is to discuss the position and this will include a review of all the options available. The employee and their representative will be given the opportunity to respond. The employee will be made aware that a potential outcome of the meeting may be that the only course of action available is termination of employment on the grounds of sickness capability (as all other options have been considered.)
- The meeting should be convened by the relevant Executive Director or Assistant Director and should be formal.
- The employee's Line Manager/Service Manager or Supervisor will be present.
- A Senior Officer from the HR and Payroll Service should always be present.
- A legal adviser may be present.

If the outcome is a decision to dismiss, the employee will receive:

- 1 The appropriate period of notice, or payment in lieu of notice (if appropriate).
- 2 Written notice of the reasons for their dismissal within five working days.

- 11 **Appeals** - The employee will have a right of appeal against this decision under the Council's Appeals Procedure.
12. This policy applies to all the Council's employees except the following: those employees who are covered by JNC Negotiating Committee for Chief Executives and the JNC Negotiating Committee for Chief Officers of Local Authorities.