

# **Sickness Absence Management Policy NEDDC**

March 2024

## CONTROL SHEET FOR SICKNESS ABSENCE MANAGEMENT POLICY

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## **SICKNESS ABSENCE MANAGEMENT POLICY**

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 affects how teams and services perform. This in turn affects the level and quality of service provided to our customers.

In the implementation of this policy, due regard will be given to the Equality Act 2010 covering age, gender, disability, pregnancy, race, religion, belief and sexual orientation.

### **What Employees' can expect from the Council**

1. The Council is concerned for the health, safety and wellbeing of all employees
2. Absence is handled in a positive way and each case is assessed on its' merits.
3. Support will be offered to employees as far as reasonably possible to overcome ill health difficulties.
4. Implementation of a policy to achieve an improvement in overall employee attendance levels
5. Access to additional services wherever possible such as Occupational Health, Employee Assistance Programme, Counselling, NEDDC Leisure Health & Wellbeing Referral Scheme and DCC Live Life Better Service.

### **What the Council expects from Employees**

1. To attend for work whenever employees are fit and able to do so
2. For employees to care for their health and take all reasonable steps possible to facilitate attendance at work including seeking medical advice/support when appropriate
3. Employee's should not to be involved in activities which may inhibit recovery from ill-health, return to work or attendance at work as a result of ill-health.
4. Employees must co-operate fully with the application of this policy
5. Employees must be proactive in maintaining regular and timely contact with their manager when absent due to sickness and advise their manager in accordance with this policy. This includes informing their manager:
  - Likely dates of fitness for work
  - If a fit note is likely to be received
  - If further absence is likely to be experienced.
6. Employees should use their own time (i.e. annual leave, unpaid 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.
7. Wherever possible medical/dentist/health appointments should be arranged and undertaken in an employee's own time.

Employees have the right to be accompanied by their Trade Union representative or work colleague throughout the formal stages of the policy.

### **Failure to Comply with the Policy**

- Unreasonable late notification of sickness, late submission of fit notes or failure to co-operate with the terms of the policy, may result in sick pay being 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 Team.
- Unreasonable failure to co-operate with the terms of this policy such as failing to attend occupational health appointments and/or sickness capability meetings or the employee fails to communicate with their manager in a timely manner, may result in sick pay being withheld in respect of the period of the employee has failed to co-operate with the Council's policy. It could also potentially result in disciplinary action.
- If an employee knowingly submits false information in relation to their sickness absence this will be treated in accordance with the Councils' Disciplinary Policy.

## **PART ONE – SICKNESS ABSENCE REPORTING**

This process is followed if an employee is unable to attend work due to ill health. It applies to all employees, including casual and agency workers.

### **1. Day One (First Calendar Day)**

An employee must notify their manager at the earliest opportunity if they expect to be unable to attend for work due to sickness absence.

An employee must notify their manager by telephone call and at least by:

- 9am OR
- If working shifts, one hour or more before commencement of the shift

Services should make employees aware of individual reporting lines. If the manager is unavailable you must inform another manager within the service.

The following information will be obtained by the manager:

- a) Employee's name
- b) Reason for absence - the general nature of any illness, the first day of sickness and whether the absence is work related
- c) Expected date and time of return to work if known
- d) If any assistance or advice is required by the employee
- e) Any outstanding work commitments
- f) Who reported the absence
- g) Whether or not the employee has contacted or will be contacting their GP

The manager or person receiving the call must complete a Sickness Absence Form SF1 and return this to HR Team on the first day of absence either via email or via the online form.

### **2. Day Four (Fourth Calendar Day)**

If the absence continues after three calendar days on the fourth day (if part-time the fourth calendar day) the employee must contact their manager by telephone call to provide an update on their ill health absence and expected date of return.

If the manager is unavailable, arrangements will be made for employees to contact another Manager within the service.

### **3. Day Eight (Eighth Calendar Day)**

If the absence continues after seven calendar days on the eighth day, the employee must contact their manager by telephone call to provide an update on their ill health absence and expected date of return.

If the manager is unavailable, arrangements will be made for employees to contact another Manager within the service.

Employees must also obtain a Fit Note from their Doctor/Nurse, as the absence is continuing beyond seven calendar days. The employee must submit their fit note to their manager at the earliest opportunity. Managers are responsible for sending a copy of the fit note to the HR Team as soon as possible.

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 and obtaining a fit note.

#### **4. Fit Notes**

- A Fit note will indicate whether the employee is unfit for work, or whether they may be fit subject to certain conditions. Fit notes may be issued by doctors, nurses, occupational therapists, pharmacists, and physiotherapists. The law requires one of these healthcare professionals to undertake an assessment, either through a face to face, video call, telephone consultation or through considering a written report by another healthcare professional, to complete a fit note.
- Fit notes can be handwritten, computer-generated and printed out or sent digitally to the employee. It must include the issuer's name, profession, and the address of the medical practice. If they are sent digitally or printed from a healthcare professionals IT system, it will contain a barcode/QR code.
- A fit note can help make an informed decision about an employee's health at work. The fit note should allow the manager and employee to discuss the employee's health condition and consider ways to help them stay in, or return to work.
- The advice in the fit note is about an employee's fitness for work in general, and not specifically about their current job role. Managers and employees will need to discuss an employee's fitness for work in relation to their job role.
- The healthcare professional's advice on the fit note could indicate an employee 'may be fit' for work - remember that this is advice, and employers are not obligated to agree, although it is recommended any supporting information is taken into consideration. If the Council is unable to agree on any workplace modification or adjustments for example due to health and safety risks, then the employee can use the same fit note as evidence for sick pay purposes.
- The healthcare professional may have utilised the tick boxes on the fit note to indicate the kind of general adaptations or reasonable adjustment an employee may require to stay in, or return to work. The tick boxes will relate to the functional effects of an employee's condition.
  - a phased return to work: a gradual increase in work duties or hours

- altered hours: changes to the times or duration of work
  - amended duties: changing duties to take account of a condition
  - workplace adaptations: changing aspects of the workplace, including working from home
- An employee's healthcare professional may also use the comment box to provide more detailed advice about what an employee can do at work. This advice will be about their general fitness for work, not just related to their current role, so managers have maximum flexibility to consider how the Council can support the employee to stay in, or return to, work.
  - Employees can often return to work before they are 100% fit – in fact, work can even help their recovery and wellbeing. Employees can return to work at any time, even if this is before their fit note expires. They do not need to go back to their healthcare professional first.
  - Employees must inform their manager immediately if they are issued with a Fit Note and send the copy of the fit note to their manager.
  - If the Fit Note indicates that the employee is fit for work subject to certain conditions, then a meeting will be arranged between the Manager 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 Fit Note will be treated as though the employee was declared 'not fit for work'.
  - Fit Notes must be submitted to cover absence if it extends beyond the period covered by the current Fit Note. These should be provided to the Council by no later than the day after the expiry of the previous Fit Note and should be sent direct to the manager, who will in turn send a copy to the HR Team. Employees should keep their manager updated on when they receive a fit note and ensuring this is sent to the manager.
  - Unreasonable late submission of fit notes will result in sick pay being 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.

## 5. **Communication/Contact**

- The most important aspect of sickness absence is to maintain regular and timely communication between managers and absent employees. This is by definition a two way process.
- Managers and employees should be proactive in maintaining contact during any period of sickness absence. This is proven to facilitate a successful recovery and return to work.

- The method of contact such as telephone, email or personal visits should always be agreed between the employee and the manager and must be in line with this policy.
- The purpose of the contact is to keep in touch, exchange information and provide advice and support to facilitate a 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.
- If the employee fails to contact their manager and provide regular updates on their health and absence from work, this may result in sick pay being withheld. Expected contact from the employee would be as follows:
  - weekly contact by the employee if short term absence is being experienced beyond the initial seven calendar days
  - contact every three weeks by the employee if on long term absence
  - contact following any appointment with the GP, Consultant or other medical professional
  - contact following issue of any fit note
  - contact if an employee's health condition has changed or there is a new development/information

## **6. Return To Work**

An employee should return to work as soon as they are fit to do so. The manager must conduct a return to work meeting with the employee following every absence.

The purpose of the meeting is:

- (i) to identify any concerns/issues the employee may be experiencing
- (ii) to identify any support the Council may be able to offer to facilitate attendance at work, this could include advice being sought from Occupational Health or external services.
- (iii) to discuss the employee's absence and to consider it in the context of other absence and an update/briefing on the work activities while absent.

As soon as possible on the return to work, the manager must complete an SF2 form with the employee and send this to the HR & OD Team via email or via the online form. This information is kept confidential.

There may be circumstances where it is clear, further absence experienced within a short period of a previous absence is a continuation of the same sickness absence. If an employee returns from certificated absence for less than ten working days then this will normally be



treated as a continuation of the previous absence for management purposes and a fit note will be required to cover the absence.

### **Sickness Absence and Annual Leave**

To obtain reinstatement of Annual Leave due to ill-health a Fit Note will be required and reinstatement will be given based on the dates in the Fit Note. The employee should submit the fit note to their manager.

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. The manager should seek guidance from HR on cases where the above applies.

If the employee does not return to work, the entitlement as calculated under the terms of above will be paid and based on the 20 days (including bank holidays) for the year. The manager should seek guidance from HR on cases where the above applies.

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 manager will discuss this with the employee.

Employees can request and if approved take annual leave while absent due to sickness or during a phased return to work.

### **Monitoring/Recording**

- Managers are responsible for managing and reviewing employees' absence in accordance with this policy. The HR & OD Team will provide advice and support to managers.
- Employees should familiarise themselves with this policy and managers are responsible for ensuring that employees are aware of the absence policy
- Notification procedures and all appropriate information and documentation is accurately completed and sent to the HR & OD Service in a timely manner.
- Copies of all the documentation, including any Fit Notes, will be retained on the employee's personal file. This information is treated in the strictest confidence and retained in line with legislation.

## **SICKNESS ABSENCE MANAGEMENT POLICY** **PART TWO - SICKNESS CAPABILITY**

This section of the policy details the Council's expectations of both managers and employees in the management of sickness absence. It provides a framework which managers can balance the needs of individual employees with the need to effectively deliver services.

The policy sets out how sickness levels of employees will be reviewed by their managers and how medical advice will be sought where issues continue to occur. The measures contained in this policy are designed to help employees overcome ill health by providing advice and support whenever possible and achieve an improvement in overall employee attendance levels. It is proven that attending work is a key factor to supporting good health and wellbeing.

Wherever possible the objective will be to assist employees to attend for work. However, it is recognised that this will not be possible in all cases. Therefore, this sickness absence management policy sets out the processes whereby sickness issues are addressed. Managers should always offer support. Employees must be aware that extended or recurrent absence cannot be absorbed by the service and may result in dismissal on ill-health grounds or due to sickness capability.

The concern for the Council is the level of absence experienced and the impact this has on service delivery and colleagues.

### **SICKNESS TRIGGERS**

The sickness triggers apply to all employees. The purpose is to identify individual levels of sickness absence and notify managers when further action, support and discussion with an employee regarding their health, wellbeing and attendance at work would be beneficial.

The triggers 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).

There may be circumstances where it is clear, further absence experienced within a short period of a previous absence is a continuation of the same sickness absence. If an employee returns from certificated absence for less than ten working days then this will normally be treated as a continuation of the previous absence for management purposes.

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 Policy.

Managers are responsible for managing and reviewing employees' absence in accordance with this policy. Advice should be sought from the HR Team where appropriate.

## **SHORT TERM SICKNESS ABSENCE**

An employee's absence record will be reviewed 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 an overview of the employee's attendance and any annual patterns of absence.

A meeting will be arranged by the manager, with the employee where there is concern about an employee's level of short term absences 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.

Where an employee returns to work for less than ten working days and then goes off sick again, the period of absence will normally be considered to be continuous for the management of sickness absence purposes.

A meeting may also take place at the manager's discretion in circumstances where there are reasonable grounds for concerns about sickness absence to be raised.

Advice should be sought from the HR & OD Team throughout these stages of the Policy.

### **1. First Meeting (Short Term Absence Meeting One)**

The employee will be given five calendar days notice of the meeting. This meeting is in addition to any Return to Work meetings. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

The purpose of the meeting is to:

- Discuss the employee's health and wellbeing with a view to facilitating attendance at work.
- To encourage open discussion between the manager and employee to support and facilitate attendance at work.
- 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

- Identify if referral to Occupational Health may be beneficial. If so, the OH report received will be discussed.
- If reasonable adjustments should be considered if the absence is disability related
- Discuss and develop a return to work plan (and Employee Support Plan if appropriate)
- Confirm a date for a Second Meeting after three months and remind the employee of the Council's sickness absence triggers.

Employees should be advised that continuing absences may necessitate formal action which could ultimately include termination of employment.

The content and outcome of the meeting should be confirmed in writing to the employee, normally within five working days.

## **2. Second Meeting (Short Term Absence Meeting Two)**

This meeting will take place within three months of the First Meeting, or it can be brought forward at the manager's discretion if further absence has occurred. The employee will be given five calendar days notice of the meeting. This meeting is in addition to any Return to Work meetings. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

The purpose of the meeting is to:

- Discuss the employee's health and wellbeing with a view to facilitating attendance at work.
- To encourage open discussion between the manager and employee to support and facilitate attendance at work.
- 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
- Identify if referral to Occupational Health may be beneficial. If so, the OH report received will be discussed.
- If reasonable adjustments should be considered if the absence is disability related
- Discuss and develop a return to work plan (and Employee Support Plan if appropriate)
- Review attendance against the Council's sickness absence triggers and remind the employee about the trigger levels in place.
  - If the level of sickness absence has reduced, this is positively acknowledged. It may be considered necessary to arrange a further review meeting after a further three month period or sooner at the manager's discretion.
  - If the level of sickness absence has not improved, the employee is made aware of the effect on the service and on colleagues of their continued high level of sickness absence. A First Level Sickness Capability Warning will be issued making it clear the level of absence experienced is not sustainable for the service and failure to improve attendance may lead to termination of employment. The First Level Sickness Capability Warning is considered live until there has been full attendance over a period of 12 months since the

warning was issued. Review meetings will take place on a regular basis to discuss attendance at work and steps that can be taken to facilitate attendance. A date is set for a Third Meeting after three months or sooner at the manager's discretion.

Employees should be advised that continuing absences may necessitate formal action which could ultimately include termination of employment.

The content and outcome of the meeting should be confirmed in writing to the employee, Normally within five working days.

### **3. Third Meeting (Short Term Absence Meeting Three)**

This meeting will take place within three months of the Second Meeting. The meeting can be brought forward at the manager's discretion if further absence has occurred. The employee will be given five calendar days notice of the meeting. This meeting is in addition to any Return to Work meetings. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

The purpose of the meeting is to:

- Discuss the employee's health and wellbeing with a view to facilitating attendance at work.
- Encourage an open discussion between the manager and employee
- 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
- Identify if referral to Occupational Health may be beneficial. If so, the OH report received will be discussed.
- If reasonable adjustments should be considered if the absence is disability related
- Discuss and develop a return to work plan (and Employee Support Plan if appropriate)
- Review attendance against the Council's sickness absence triggers and remind the employee about the trigger levels in place.
  - If the level of sickness absence has reduced, this is positively acknowledged. Review meetings will take place until the First Level Sickness Capability Warning is no longer considered live.
  - If the level of sickness absence has not improved, the employee is made aware of the effect on the service and on colleagues of their continued high level of sickness absence. A Final Level Sickness Capability Warning will be issued informing the employee, the level of absence experienced is not sustainable for the service and failure to improve attendance may lead to termination of employment. The Final Level Sickness Capability Warning is considered live until there has been full attendance over a period of 12 months since the warning was issued. Review meetings will take place on a regular basis to

discuss attendance at work and steps that can be taken to facilitate attendance. The case is referred to a senior manager for consideration.

Employees should be advised that continuing absences may necessitate formal action which could ultimately include termination of employment.

The content and outcome of the meeting should be confirmed in writing to the employee, Normally within five working days.

#### **4. Fourth Meeting (Short Term Absence Meeting Four) - Referral of Sickness Capability Case to a Senior Manager**

If the employee's attendance still remains a concern following meetings held under the short Term sickness absence process as set out above, or if the outcome of discussions concerning Occupational Health advice results in termination of employment being one of the relevant options, a meeting will be arranged as outlined below. A fourth meeting will also be convened if an employee has been issued with a final sickness capability warning and the desired improvement in attendance has not been achieved.

The employee will be given five working days notice of the meeting. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

- The purpose of the meeting is to discuss the sickness capability case and review the position.
- The manager (or their representative) will provide an overview of the employee's sickness absence and steps that have been undertaken to manage the employee's attendance at work.
- The employee and their representative will be given the opportunity to provide any information they wish to be considered.
- 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.)
- A HR Adviser will be present at the meeting
- The Senior Manager will consider the information and inform the employee of their decision

Possible meeting outcomes include (but are not limited to):

- Reaffirming a Final Sickness Capability Warning with an undertaking that improved attendance will be achieved by the employee and service delivery/colleagues will not be detrimentally affected. Additional steps may be put in place to support attendance at work.
- Dismissal on the grounds of sickness capability and the employee will receive the appropriate period of notice, or payment in lieu of notice (if appropriate).

The content and outcome of the meeting should be confirmed in writing to the employee, normally within five working days.

## **5. Appeal**

The employee will have a right of appeal against a decision to dismiss on the grounds of sickness capability. The Appeal will be heard by two Senior Managers.

Employees wishing to exercise the right of appeal must do so in writing to the HR & OD Manager, either individually or through their Trade Union within ten clear working days of the date of the written notification (letter or email) of the outcome of the meeting with the senior manager, giving full details of the grounds of the appeal.

The appeal submitted by or on behalf of the employee should state the specific reasons for the appeal and clearly state which of the following applies and the reason why:

1. The finding that the employee's level of sickness absence was not sustainable
2. The form of sickness capability action taken against the employee.
3. Perceived procedural irregularities
4. To present new evidence which has subsequently come to light. The new evidence must be submitted with the appeal form to enable this evidence to be accepted and considered by the Appeal Panel.

The Panel hearing the Appeal will comprise two Senior Managers with an advisor to the Panel present. Wherever possible, the Appeal will be heard by Officers who have not been involved in the case previously. The Appeal hearing will take place as soon as is reasonably practicable.

The employee will be given at least ten working days advance written notice of the Appeal hearing. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

A copy of the Reports/Statements from both the employee and the management representative must be sent to the HR Team at least five working days before the Hearing and these will be exchanged between all parties in advance of the Hearing.

If, for good reason, the employee or their representative is unable to attend the Appeal hearing, an alternative date will be offered. If the employee or their chosen representative is unable to attend the rearranged hearing, it will normally proceed in their absence, with the employee/the representative being provided with an opportunity to present the employee's case on their behalf. Any submission by the employee in writing, or by their representative, will be considered by the Appeals Panel.

The Appeals Panel will rehear the case.

Both parties will have the opportunity to present information they wish to be considered by the Panel. Either party may call witnesses if this is appropriate and relevant to case. Witnesses will only be present whilst they are giving evidence.

The format of the meeting:

- The Management Representative will present their Report. They may call witnesses on an individual basis, relevant to the original hearing as appropriate.
- The Employee is given the opportunity to ask the Management Representative and witnesses any questions
- The Management Representative may re-examine matters raised in the cross-examination of witnesses
- The Panel is given the opportunity to ask the Management Representative and witnesses any questions
- The Employee presents their Report and grounds for Appeal. They may call witnesses on an individual basis, relevant to the original hearing as appropriate.
- The Management Representative is given the opportunity to ask the Employee and witnesses any questions
- The Employee may re-examine matters raised in the cross-examination of witnesses
- The Panel is given the opportunity to ask the Employee and witnesses any questions
- The Management Representative and the Employee are given opportunity to sum up if they wish. No new information shall be introduced at this stage.
- Everyone withdraw – to enable the Panel to consider the information and reach a decision.
- Please note a decision may not necessarily be communicated on the day. The Panel will ensure the decision is notified in writing within five working days.
- Record of Hearing - the Council will take a record of a Sickness meeting conducted under this policy. This may be undertaken in written form or recorded electronically. The employee, or any person acting on the employee's behalf, is not permitted to record electronically any meeting the Council hold under this policy. This is to encourage openness and full participation. Any breach of this provision may lead to disciplinary action, which could include dismissal. All those present must comply with data protection, confidentiality and GDPR obligations.



There is no further right of Appeal at the Council.

## **LONG-TERM ABSENCE**

A meeting will be arranged by the manager, with the employee where there is concern about an employee's level of long term absences as outlined in the sickness triggers, below:

Any ongoing absence which has lasted, or can be expected to last, for four weeks

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).

There may be circumstances where it is clear, further absence experienced within a short period of a previous absence is a continuation of the same sickness absence. If an employee returns from certificated absence for less than ten working days then this will normally be treated as a continuation of the previous absence for sickness absence management purposes.

An employee's absence record will be reviewed to enable managers both to identify emerging difficulties (for example where an employee has had consistent full attendance and then begins to have regular absence); and to identify an overview of the employee's attendance and any annual patterns of absence.

A meeting may also take place at the manager's discretion in circumstances where there are reasonable grounds about sickness absence to be raised.

Advice should be sought from the HR Team throughout these stages of the Policy.

### **1. First Meeting (Long Term Absence)**

This meeting takes place within four weeks' of the first day of absence. The employee will be given five calendar days notice of the meeting. This meeting is in addition to any Return to Work meetings. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

The purpose of the meeting is to:

- Discuss the employee's health and wellbeing with a view to facilitating attendance at work.
- To encourage open discussion between the manager and employee to support and facilitate attendance at work.

- 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
- Identify if referral to Occupational Health may be beneficial. If so, the OH report received will be discussed.
- If reasonable adjustments should be considered if the absence is disability related
- Discuss and develop a return to work plan (and Employee Support Plan if appropriate)
- Review attendance against the Council's sickness absence triggers and remind the employee about the trigger levels in place.
- Confirm a date for a Second Meeting to take place within four weeks of this meeting

Employees should be advised that continuing absences may necessitate formal action which could ultimately include termination of employment. The employee is made aware of the effect on the service and on colleagues of their continued high level of sickness absence.

The content and outcome of the meeting should be confirmed in writing to the employee, normally within five working days.

## **2. Second Meeting (Long Term Absence)**

This meeting takes place within four weeks to six weeks of the First Meeting. The employee will be given five calendar days notice of the meeting. This meeting is in addition to any Return to Work meetings. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

The purpose of the meeting is to:

- Discuss the employee's health and wellbeing with a view to facilitating attendance at work.
- To encourage open discussion between the manager and employee to support and facilitate attendance at work.
- 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
- Identify if referral to Occupational Health may be beneficial. If so, the OH report received will be discussed.
- If reasonable adjustments should be considered if the absence is disability related
- Discuss and develop a return to work plan (and Employee Support Plan if appropriate)
- Review attendance against the Council's sickness absence triggers and remind the employee about the trigger levels in place.
- Confirm a date for a Third Meeting to take place within four weeks of this meeting

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

- c) 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 defined given period. If employees reduce their hours this will result in adjusted pay. Dependent upon individual circumstances, modified duties may result in adjusted pay.
- d) 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 Council's Redeployment Policy.
- e) 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.

Employees should be advised that continuing absences may necessitate formal action which could ultimately include termination of employment. The employee is made aware of the effect on the service and on colleagues of their continued high level of sickness absence.

An outcome from this meeting could be to issue a First Level Sickness Capability Warning informing the employee, the level of absence being experienced is not sustainable for the Service. The First Level Sickness Capability Warning is considered live until there has been full attendance over a period of 12 months since the warning was issued. Review meetings will take place on a regular basis to discuss attendance at work and steps that can be taken to facilitate attendance.

The content and outcome of the meeting should be confirmed in writing to the employee, normally within five working days.

### **3. Third Meeting (Long Term Absence)**

This meeting takes place within four weeks to six weeks of the Second Meeting. The employee will be given five calendar days notice of the meeting. This meeting is in addition to any Return to Work meetings. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

The purpose of the meeting is to:

- Discuss the employee's health and wellbeing with a view to facilitating attendance at work.
- To encourage open discussion between the manager and employee to support and facilitate attendance at work.
- 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
- Identify if referral to Occupational Health may be beneficial. If so, the OH report received will be discussed.
- If reasonable adjustments should be considered if the absence is disability related
- Discuss and develop a return to work plan (and Employee Support Plan if appropriate)

- Review attendance against the Council's sickness absence triggers and remind the employee about the trigger levels in place.

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
- c) 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.
- d) 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 Council's Redeployment Procedure.
- e) 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.

Employees should be advised that continuing absences may necessitate formal action which could ultimately include termination of employment.

An outcome from this meeting could be to issue a First Level Sickness Capability Warning informing the employee, the level of absence being experienced is not sustainable for the service. The First Level Sickness Capability Warning is considered live until there has been full attendance over a period of 12 months since the warning was issued. Review meetings will take place on a regular basis to discuss attendance at work and steps that can be taken to facilitate attendance.

If a First Level Sickness Capability Warning has previously been issued, then a Final Level Sickness Capability Warning should be issued. The Final Level Sickness Capability Warning is considered live until there has been full attendance over a period of 12 months since the warning was issued. Review meetings will take place on a regular basis to discuss attendance at work and steps that can be taken to facilitate attendance.

The content and outcome of the meeting should be confirmed in writing to the employee, Normally within five working days.

If the employee's attendance still remains a concern following meetings held under the long term sickness absence process as set out above, or if the outcome of discussions results in termination of employment being one of the relevant options, then a meeting will be arranged as outlined below.

#### **4. Fourth Meeting (Long term absence) - Referral of Sickness Capability Case to a Senior Manager**

The employee and their representative will be given five working days notice of the meeting. The employee is offered the right to be accompanied by a Trade Union representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

- The purpose of the meeting is to discuss the sickness capability case and review the position.
- The manager (or their representative) will provide an overview of the employees sickness absence and steps that have been undertaken.
- The employee and their representative will be given the opportunity to provide any information they wish to be considered.
- 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.)
- A HR Adviser will be present at the meeting
- The Senior Manager will consider the information and inform the employee of their decision

Possible meeting outcomes include (but are not limited to):

- Reaffirming a Final Sickness Capability Warning with an undertaking that improved attendance will be achieved and service delivery/colleagues will not be detrimentally affected. Additional steps may be put in place to support attendance at work.
- Dismissal on the grounds of sickness capability and the employee will receive the appropriate period of notice, or payment in lieu of notice (if appropriate).

The content and outcome of the meeting should be confirmed in writing to the employee, Normally within five working days.

#### **5. Appeal**

The employee will have a right of appeal against a decision to dismiss on the grounds of sickness capability. The Appeal will be heard by two Senior Managers.

Employees wishing to exercise the right of appeal must do so in writing to the HR & OD Manager, either individually or through their Trade Union within ten clear working days of the date of the written notification (letter or email) of the outcome of the meeting with the senior manager, giving full details of the grounds of the appeal.

The appeal submitted by or on behalf of the employee should state the specific reasons for the appeal and clearly state which of the following applies and the reason why:

- The finding that the employee's level of sickness absence was not sustainable

- The form of sickness capability action taken against the employee.
- Perceived procedural irregularities
- To present new evidence which has subsequently come to light. The new evidence must be submitted with the appeal form to enable this evidence to be accepted and considered by the Appeal Panel.

The Panel hearing the Appeal will comprise two Senior Managers with an advisor to the Panel present. Wherever possible, the Appeal will be heard by Officers who have not been involved in the case previously. The Appeal hearing will take place as soon as is reasonably practicable.

The employee will be given at least ten working days advance written notice of the Appeal hearing. The employee is offered the right to be accompanied by a Trade Union Representative or work colleague. It is the employee's responsibility to make arrangements for their work colleague or trade union representative to attend any meeting.

A copy of the Reports/Statements from both the employee and the management representative must be sent to the HR Team at least five working days before the Hearing and these will be exchanged between all parties in advance of the Hearing.

If, for good reason, the employee or their representative is unable to attend the Appeal hearing, an alternative date will be offered. If the employee or their chosen representative is unable to attend the rearranged hearing, it will normally proceed in their absence, with the employee/the representative being provided with an opportunity to present the employee's case on their behalf. Any submission by the employee in writing, or by their representative, will be considered by the Appeals Panel.

The Appeals Panel will rehear the case.

Both parties will have the opportunity to present information they wish to be considered by the Panel. Either party may call witnesses if this is appropriate and relevant to case. Witnesses will only be present whilst they are giving evidence.

The format of the meeting:

- The Management Representative will present their Report. They may call witnesses on an individual basis, relevant to the original hearing as appropriate.
- The Employee is given the opportunity to ask the Management Representative and witnesses any questions
- The Management Representative may re-examine matters raised in the cross-examination of witnesses
- The Panel is given the opportunity to ask the Management Representative and witnesses any questions

- The Employee presents their Report and grounds for Appeal. They may call witnesses on an individual basis, relevant to the original hearing as appropriate.
- The Management Representative is given the opportunity to ask the Employee and witnesses any questions
- The Employee may re-examine matters raised in the cross-examination of witnesses
- The Panel is given the opportunity to ask the Employee and witnesses any questions
- The Management Representative and the Employee are given opportunity to sum up if they wish. No new information shall be introduced at this stage.
- Everyone withdraw – to enable the Panel to consider the information and reach a decision.
- Please note a decision may not necessarily be communicated on the day.
- The Panel will ensure the decision is notified in writing within five working days.
- Record of Hearing - the Council will take a record of a Sickness meeting conducted under this policy. This may be undertaken in written form or recorded electronically. The employee, or any person acting on the employee's behalf, is not permitted to record electronically any meeting the Council hold under this policy. This is to encourage openness and full participation. Any breach of this provision may lead to disciplinary action, which could include dismissal. All those present must comply with data protection, confidentiality and GDPR obligations.

There is no further right of Appeal within the Council.

## **6. Further Sickness Absence Experienced upon Return to Work**

Should an employee return to work and then experience further sickness absence while still within their review period or within the rolling 12 month period since their last absence, the employee will be re-engaged with the Sickness Absence Management Policy based on the stage they had reached previously, as monitoring of their attendance is still considered live. Managers should seek advice from the HR Team.

## **7. Reasonable Adjustments**

An employer must make adjustments for an employee who is disabled if the adjustments are reasonable. What is considered 'reasonable' depends on the circumstances of each case. Reasonable adjustments are specific to an individual person. It is for the manager and the Council to identify and initiate any reasonable adjustments. Any suggestions from the employee will of course be considered.

The Council's decision should take into account:

- why an employee needs time off and how much time the employee may need
- the impact on the person of not making an adjustment
- the impact on the organisation or team

An employer does not have to make adjustments if they're not reasonable. But they must make sure they're not putting the person at a disadvantage because of their disability.

Examples of potential reasonable adjustments (albeit these will be determined based on the circumstances of the case and the job role undertaken) could include for a temporary or ongoing period:

- adjustment to working hours
- change of work location
- amendment to some job duties
- provision of alternative equipment or tools to undertake the job role
- allowing for paid attendance for medical appointments related to the disability

Reasonable adjustments will be subject to ongoing review to ensure they continue to be suitable and reasonable.

## **8. Phased Return to Work**

To facilitate a return to work following long-term sickness absence, or in certain cases dependent on the nature of the illness, the Occupational Health Adviser or GP may recommend some form of phased return to full duties and responsibilities. This will form part of the Return to Work Plan and will outline the terms of the phased return. A phased return will be based on the circumstances of the case and will be a maximum of four weeks. The employee must gradually be building up to a return to full duties and their normal working hours, by the end of the four week period. For this period the employee will be classed as being at work for pay purposes and the employee will be paid their normal rate of pay. The employee can request and take approved annual leave while on a phased return to work.

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 revert back to the normal absence management process and should seek further advice from their GP.

## **9. Occupational Health**

Dependent upon the circumstances of each individual case, the Council 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 that early referral facilitates a speedier recovery
- d) If information is required about the likely length of absence
- e) After an absence of four weeks, (unless in cases where the prognosis is clear following information received from a recognised healthcare professional)
- f) Where there is no medical evidence to support frequent self certificated absences

The employee has a duty to undertake appointments with the Occupational Health Service, and to give immediate notice if unable to attend. Failure to do so can lead to withdrawal of pay under the Sickness Payments Scheme.

In certain circumstances, one of the options that will be considered may be a referral under the NEDDC Leisure Health & Wellbeing 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.

Following receipt of the Occupational Health report, a meeting will take place with the employee. This may be part of the scheduled meetings or an additional meeting, dependent upon the circumstances and timing.