

**Weobley  
Primary  
School**

## Staff Sickness and Absence Policy

Implementation Date: November 2016

Review Date: November 2017 ( or in line with national changes)

## Signatures

<u>Title</u>	<u>Name</u>	<u>Signature</u>	<u>Date</u>
Head of School:	Mr S Warrell		November 2016
Chair of Governors:	Mrs J Hall		November 2016

## Contents

<b>1 Policy.....</b>	<b>3</b>
<b>2 Scope.....</b>	<b>4</b>
<b>3 Definitions.....</b>	<b>4</b>
<b>4 Responsibilities.....</b>	<b>5</b>
<b>5 Procedure.....</b>	<b>6</b>
<b>6 Time off for Medical Appointments .....</b>	<b>12</b>
<b>7 Record Keeping and Monitoring.....</b>	<b>12</b>
<b>8 Absence due to Disability.....</b>	<b>13</b>
<b>9 Notes.....</b>	<b>14</b>
<b>10 Compliance.....</b>	<b>15</b>
<b>11 Impact on the Council’s Key Priorities.....</b>	<b>15</b>
<b>12 Training and Awareness Requirements.....</b>	<b>15</b>
<b>13 Monitoring.....</b>	<b>15</b>
<b>14 Review.....</b>	<b>16</b>
<b>Appendix 1: Flowcharts.....</b>	<b>17</b>
<b>Appendix 2: Structure for Final Case Hearing.....</b>	<b>19</b>
<b>Appendix 3: Ill Health Retirement.....</b>	<b>20</b>

## 1. **POLICY**

- 1.1 As a good employer, the purpose of this policy is to provide clear, consistent and fair managing attendance procedures that enable the council to meet its responsibilities under employment legislation, best practice and ACAS guidelines.
- 1.2 The aim of this policy is to ensure the wellbeing of the council's employees and to secure consistent high levels of healthy attendance. The procedures set out in this document aim to ensure a standard approach across directorates, and fair and consistent treatment of employees.
- 1.3 The council is concerned for the wellbeing of its employees. It accepts that there will be occasions when employees are unavoidably absent from work through sickness or injury. Such absences do, however, have an impact on service provision. Therefore, absences have to be monitored and managed so that the council can continue to provide an efficient, economical and effective service
- 1.4 Herefordshire Council values the skills and experience of disabled employees, and is committed to supporting disabled people by removing barriers, tackling discrimination and implementing best employment practice.
- 1.5 This means that:
- The council aims to achieve the lowest possible levels of sickness absence. This is a key management responsibility. Training, support and guidance is available from human resources for managers to ensure that they are able to manage sickness absence in a timely, considered and sensitive manner.
  - Employees will be provided with support, access to occupational health (OH) services, reasonable adjustments where appropriate, and consideration for alternative employment as an alternative to dismissal, which will be seen as a last resort.
  - At all formal stages of the procedure employees will have the right to be accompanied by a workplace colleague or trade union representative.
  - There is a right of appeal against a final notification, suspension of occupational sick pay, dismissal, or medical redeployment.
  - No employee will be dismissed under this policy without careful investigation of their medical condition, advice from the occupational health service, an opportunity to put forward their views, and a prior warning of the potential for termination of employment.
- 1.6 The council recognises that where an employee is affected by a medical condition that may affect their continued employment that this may cause distress and uncertainty. These feelings will be recognised by managers dealing with such cases and every reasonable effort will be made to keep the employee informed and appropriately supported throughout the procedure. The council will endeavour to work with the employee to resolve any employment consequences arising from their illness, and acknowledges that wherever possible adhering to the deadlines in this policy (or as established in individual cases from the advice received) is a means to minimise uncertainty. In particular where an employee has been diagnosed with a potentially terminal illness the manager will seek early advice from HR Services.

## 2. SCOPE

- 2.1 This policy and procedure applies to all employees of Herefordshire Council. The procedures will be adapted where it is impractical to follow them in full, for example for short term temporary workers and employees who have not yet successfully completed passed their probationary period. Probationary/short term contract employees will not have their contracts extended solely for the purpose of completing this procedure.
- 2.2 The policy and general principles apply to JNC represented grades.
- 2.3 This policy and procedure applies whether or not sick pay entitlements have been exhausted.
- 2.4 The Managing Attendance Procedure applies where an employee has an unacceptable level or pattern of short term absence (whether or not caused by an underlying medical problem), and in cases of long term sickness absence.
- 2.5 The Managing Attendance Procedure does not apply in cases of;
- abuse of the council's sickness absence reporting arrangements (section 6.1), where the disciplinary procedure applies,
  - abuse of the occupational sick pay scheme (including where a manager believes an employee's absence is not caused by a genuine illness), where the disciplinary procedure applies,
  - lack of performance where the cause is identified as being health related but which has not yet resulted in absence, where the managing performance procedure applies.
- 2.6 Other policies and procedures relevant to health, well being, and attendance related issues include;
- Managing Attendance: Return to Work on Reduced Hours and/or Restricted Duties – Guidance
  - Health and safety documents
  - NJC Conditions of Service concerning occupational sick pay
  - Local Government Pension Scheme Regulations concerning ill health retirement

## 3. DEFINITIONS

- 3.1 The meaning of some key words and phrases, for the purposes of this policy are explained below:

**Work Colleague.** A current employee of Herefordshire Council or, for integrated teams, an employee of a partner organisation.

**Manager.** Either the manager, supervisor or team leader with line management responsibility for the employee, or an alternative manager where circumstances set out in the policy have been met.

**Trade Union representative.** Lay or permanent official of the Trade Union to which the employee belongs, who has been reasonably certified in writing by their union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings.

**Working days.** Excludes weekends (even where the employee's working pattern includes weekends), bank holidays, the day of any disciplinary hearing, and the day upon which the notification of hearing is sent to the employee.

**Trigger.** A specific level or pattern of short term absence that triggers the employee meeting with their manager to discuss attendance levels (6.3.2)

**Return to Work Plan.** A plan drawn up in conjunction with the employee, normally on the advice of OH, which provides for an adjustment in duties or hours that will allow the employee to return and commence a period of monitored rehabilitation to their full duties.

**Disabled employee.** Employee who is disabled under the definition in current legislation.

**Disability-related sickness absence.** Sickness absence directly related to an identified impairment.

**Disability leave.** An absence from work for a disability related reason other than sickness. This may be planned or unplanned.

#### 4. **RESPONSIBILITIES**

**Managers** are responsible for ensuring that their employees understand the standards of attendance that are expected of them and the procedures for notifying absence correctly. Managers are responsible for monitoring their employee's levels of sickness

**Employees** are responsible for familiarising themselves with the rules concerning absence reporting, maintaining acceptable levels of attendance, and for asking their managers if they are unclear about what is expected of them. Employees are expected to cooperate with their manager in relation to attending scheduled occupational health appointments, meetings and home visits, providing relevant information, and other assistance given to facilitate an effective return to work.

**Managers and employees** are both responsible for acting respectfully toward each other in relation to the implementation of these procedures and to operate them with the genuine aim of securing improvement in attendance or a return to work. All parties should have due regard for maintaining confidentiality and, if in doubt, should seek advice on this from HR Services.

**Human Resources Services** are responsible for providing timely and appropriate advice and support to managers throughout this procedure and for engaging external advice, for example from OH. They are not responsible for decisions in relation to cases involving short or long term absence or the overall level of absence in the manager's team. These issues remain the responsibility of the manager, or director, as appropriate. HR Services is accountable for the advice they give including ensuring OH reports are used appropriately in the decision making process.

**Elected Members.** Members must not get involved in individual cases unless where formally required under this procedure. Elected members will review the overall level of absence as part of the scrutiny of the council's performance.

**Occupational Health (OH).** In relation to this procedure to provide independent advice to the council as the employer related to an employee's fitness to undertake their current or alternative role in relation to their health, performance, disability and attendance. OH will advise all parties with regard to rehabilitation and return to work planning.

## **5. PROCEDURE (see Appendix 1 flow charts)**

### **5.1 REPORTING ABSENCE**

- 5.1.1 The employee must notify, **personally wherever possible**, their manager/supervisor of his/her absence, its nature and the likely duration, as early as possible on the first day of absence and normally within two hours of their scheduled start time. Where a message has had to be left then the employee must make direct contact with the manager as soon as possible afterwards. **E-mails and text messages are not acceptable on their own.**
- 5.1.2 If the absence continues beyond three days, then on the fourth day the employee must give further notification of his/her continued absence and likely return to work date (if known) to his/her manager or supervisor.
- 5.1.3 If the absence continues beyond seven calendar days, then on the eighth day the employee must submit a Statement of Fitness for Work to their manager.
- 5.1.4 If the form indicates that the employee may be fit for work with adjustments, refer to the 'Managing Attendance Return to Work on Reduced Hours / Restricted Duties - Guidance'.

Subsequent Statements of Fitness for Work must be submitted to cover the absence or part absence if it extends beyond the period covered by the initial statement.

### **5.1.5 PUNCTUALITY**

#### **5.1.6 Arriving Late**

Staff who are late are required to notify the relevant co-workers as soon as possible, or otherwise report immediately on arrival should the circumstances not allow for advance notice (e.g. an accident or serious hold-up on route) Staff whose repeated lateness continues to cause concern will be invited to a meeting with the Headteacher where support and monitoring measures will be put in place.

#### **Leaving Early**

If you find on arrival to work that you are unwell or have to leave due to an emergency during the working day please inform your Line Manager.

### **5.2 RETURN TO WORK**

- 5.2.1 On return to work, even after part or single days, MA1 self-certification/declaration form must be completed and signed by the employee and countersigned and retained by the manager/supervisor. Employee's entitlement to sick pay depends upon accurate completion of the self-certification/declaration form. If an employee knowingly provides false information on this form with the intention to mislead, this should be treated as misconduct and dealt with accordingly under the Disciplinary Procedure.
- 5.2.2 After every absence the employee's manager/supervisor should conduct a return to work interview. This should take place as soon as is reasonably practicable, ideally on the day that the employee returns to work and be proportionate to the circumstances.

5.2.3 The purpose of the return to work interview is to:

- Discuss the absence and explore reasons for it, including whether absence was work- or pregnancy-related.
- Update the employee on any workplace or workload issues, during their absence.
- Explore ways to resolve any problems, which might improve healthy attendance, by taking medical or such other advice as required. The manager should explain the range of appropriate occupational health and counselling services available.
- Check the employee is fit to return to work and whether any temporary adjustments or support are necessary.
- Ensure the employee understands the council's commitment to high levels of healthy attendance.
- When the absence levels reach the trigger points (see below), the manager should also explain that s/he is concerned about the level of absence, and that a meeting will be arranged to discuss their attendance levels.

5.2.4 The manager should complete MA2 return to work interview, giving a copy to the employee and retaining the original.

### 5.3 **PROCEDURE TO BE FOLLOWED FOR FREQUENT SHORT TERM ABSENCES**

5.3.1 It is the manager's responsibility to monitor their employee's level of sickness absence.

5.3.2 **Triggers.** The council has identified a series of 'triggers', which should indicate to a manager when further action on an individual's sickness absence record is required.

- Employees who have had four or more periods of absence in the preceding six months (including single days and half or part days).
- Employees who have had ten or more days of absence in the preceding six months (or two working weeks for part-time employees).
- Employees who have a pattern of absence that may give rise to a cause for concern. An example might be an employee who is absent only on a Monday or Friday.

5.3.3 **Meeting to discuss attendance levels.** When an employee's sickness levels reaches these triggers, the manager should carry out the usual return to work interview, at which s/he will explain to the employee that a meeting is to be arranged to discuss the employee's absence levels.

5.3.4 The manager/supervisor should send a written invitation to the employee to attend the meeting explaining its purpose and that s/he has the right to be accompanied by a trade union representative, or work colleague. (MA4 Invitation to meeting to discuss attendance levels.) If the employee is not able to attend the meeting on the date suggested, they can suggest another date within five working days of the original date (unless this is extended by mutual agreement). If the employee does not attend a meeting that has been arranged, one further date should be arranged.

5.3.5 If the employee becomes absent due to sickness and states that s/he is unable to attend the meeting, advice should be sought from HR Services. An employee may be unfit for work, but well enough to attend a meeting under this procedure, which could be at the employee's home with their consent.

5.3.6 The purpose of the meeting is to:

- explain the manager's concern at the level of absence,
- explore the reasons for the absence,
- explore ways to resolve any problems, which might improve healthy attendance, by taking medical or such other advice as required. The manager should explain the range of appropriate OH and counselling services available, and consider referring the employee to OH at this stage,
- consider making reasonable adjustments to the employee's job (including temporary redeployment) to accommodate their short-term requirements where the employee may be considered disabled under current equalities legislation,
- consider formally notifying the employee of the manager's concern.

5.3.7 Where possible, the manager should communicate the outcome to the employee at the meeting. The manager should write to the employee within two days of the meeting. If the decision is to formally notify the employee of the manager's concern at the level of sickness absence, the letter will explain that an improvement is required, that attendance will be monitored over the next six months, and that persistent short term absence could put continued employment at risk. (MA5 outcome of 1<sup>st</sup> meeting – formal notification of concern.) If during that time the employee has a further two or more periods of sickness absence, they will be invited to attend a further meeting at which their attendance will be reviewed.

5.3.8 If the manager decides that there are grounds for referring the employee to OH he/she will seek the advice of HR Services who is responsible for making the necessary arrangements. Referrals may be made at this stage where it is believed that the employee may have a medical problem where assistance or adjustments may be required to help them return to an acceptable level of healthy attendance, where there is concern that the reasons for absence are not genuinely medically related, or to help determine whether further absences are likely if the employee has an underlying condition.

5.3.9 If the manager decides not to formally notify the employee of his/her concern, the employee should be informed of the decision and reasons in writing, copied to the assistant director.

5.3.10 **Second Meeting to Discuss Attendance Levels.** Where the employee has had further absence as specified in 5.3.7 above or the pattern of absence referred to in 5.3.2 above continues, the manager/supervisor should send a written invitation to the employee to attend a further meeting. The letter should explain the purpose of the meeting and that s/he has the right to be accompanied by a trade union representative, or work colleague. If the employee is not able to attend the meeting on the date suggested this will be dealt with under the provisions of 5.3.4 above.

5.3.11 If the employee becomes absent due to sickness and so says that s/he is unable to attend the meeting, advice should be sought from the HRO. An employee may be unfit for work, but well enough to attend a meeting under this procedure, which could be at the employee's home with their consent.

5.3.12 The purpose of the meeting is to:

- explain the manager's continuing concern at the level of absence,

- explore the reasons for the absence and why there has been no or insufficient improvement,
- explore ways to resolve any problems, which might improve healthy attendance, by taking medical or such other advice as required. The manager should explain the range of appropriate OH and counselling services available, and consider referring the employee to OH at this stage,
- consider making reasonable adjustments to the employee's job (including temporary redeployment) to accommodate their short-term requirements where the employee may be considered disabled under current equalities legislation
- consider sending a second letter formally notifying the employee of the manager's concern.

5.3.13 Where possible, the manager should communicate the outcome to the employee at the meeting. The manager should write to the employee within five days of the meeting. If the decision is to send a further letter formally notify the employee of the managers concern at the level of sickness absence, the letter will explain that an improvement is required, that attendance will be monitored over the next six months, and that persistent short term absence could put continued employment at risk. (MA6 Outcome of 2<sup>nd</sup> meeting – formal notification of concern.) If during that time the employee has a further two or more periods of sickness absence, consideration may be given to referring the employee to OH (if not already done so) and / or holding a final case hearing (5.5 below).

5.3.14 If the manager decides not to send a further letter notifying the employee of his concern, the employee should be informed of the decision and reasons in writing, copied to the assistant director.

#### 5.4 CONTINUING SICKNESS ABSENCE

5.4.1 It is important that the manager maintains contact with the employee throughout a period of absence to find out how they are and their prospects for return to work. This may be by telephone or, with the consent of the employee, a home visit. The emphasis should be on providing appropriate support to enable the employee to return to work as soon as possible. This could involve returning on reduced hours and/or duties under a structured return to work plan. If either of these are being considered the manager should refer the employee to OH (5.8 below). A referral should also be made in certain circumstances if the employee is expected to be absent for four weeks or more.

5.4.2 The following are guidelines for timescales and activities associated with continuing sickness absence and may vary depending on individual circumstances. At each stage the employee should be sent written confirmation of discussions and decisions made.

5.4.3 Starting with the first week of absence, the manager should maintain regular contact with the employee.

5.4.4 During week four, where possible, the manager and employee should agree a strategy for returning to work. If not already done so, the employee should be referred to OH if the absence is likely to continue or if there is any concern by the manager or employee that the prognosis for a return date/full return to duties given by the employee's GP or specialist is not achievable.

5.4.5 During week eight the manager should review the absence and strategy for returning to work with the employee. The employee should be made aware that if their

absence were to continue to 14 weeks, the manager will consider further action that could be taken, including reviewing whether employment should continue, based on medical advice and service considerations.

5.4.6 During week 14, the manager should review the situation to determine the possibility of the employee returning to work and the likely outcomes of further action(s) that could be taken to assist a return, taking account of OH advice. Medical redeployment or reasonable adjustments under current equalities legislation will be considered. If these are not appropriate and medical prognosis indicates continued long-term absence, the manager should refer to their assistant director for a final case hearing (if the assistant director has dealt with the prior stages the referral will be to the director).

## 5.5 FINAL CASE HEARING

5.5.1 A final case hearing will take place in the following circumstances:

- Where the employee has been on long term sickness absence and there is considered to be no likelihood of returning to work within a reasonable period.
- Where the employee is absent for a further two periods within the subsequent six months of the second letter from the manager notifying the employee of his / her concern.

5.5.2 The assistant director should send a written invitation to the employee to attend the final case hearing, giving a minimum of five working days notice. The assistant director will be advised by HR Services. The letter should explain the purpose of the meeting and that s/he has the right to be accompanied by a trade union representative, or work colleague. It should inform the employee that that dismissal on grounds of capability is a potential outcome of the meeting. (MA7 Notice of final case hearing.) If the employee is on sick leave the manager should contact him/her personally. If the employee is not able to attend the meeting on the date suggested this should be dealt as in 5.3.4 above. A structure for the hearing is given at Appendix 2.

5.5.3 The hearing will take into account the following factors as relevant to each case;

- how soon the employee's health and attendance will improve,
- whether alternative work is available,
- the effect of the absence on the council,
- how similar cases have been dealt with in the past,
- the requirements of current equalities legislation and;
- whether the absence has been caused by injury at work, including assault.

5.5.4 Possible outcomes of the hearing are to:

- seek further information on the issue of capability or further independent medical advice where there is a conflict of medical opinion (in which case the hearing will be adjourned and reconvened at a later date and where on receipt of the advice the manager will make a decision based on all the evidence),
- consider redeployment based on OH advice,
- give the employee a final notification that the levels of absence may lead to a dismissal unless a sufficient improvement in attendance is achieved, or;

- dismiss the employee on the grounds of capability.

5.5.5 Where possible, the outcome of the meeting should be communicated to the employee at the meeting. It should be confirmed in writing to the employee within five working days. (MA8 Final notification of concern / dismissal.)

5.5.6 The employee has a right of appeal to the director for a final notification, medical redeployment, or dismissal. To appeal, the employee should complete MA3 appeal form and send it to the director within five working days of receipt of the letter confirming the decision.

## 5.6 APPEALS

5.6.1 The employee will be invited to a meeting to hear the appeal. A minimum of five working days notice will be given of the meeting. The employee has the right to be accompanied to the meeting by a trade union representative, or work colleague. If the employee's representative cannot attend the proposed date, the employee may suggest another reasonable date no more than five working days after the date originally proposed. The five day limit may be extended by mutual agreement.

5.6.2 The director (or alternative director where the original decision was taken at director level) should seek the views of the manager and employee, who should each present their case, and ask questions where applicable. The intention is that all aspects of the employee's circumstances are considered as well as the requirements of the organisation before a decision is made.

5.6.3 The employee must submit any documentation for the appeal at least two working days before the hearing to the director.

5.6.4 The appeal hearing will normally be conducted as follows, with the director advised at the appeal by a member of HR Services:

- The director will introduce the participants and their roles, check that everyone has the correct documentation and explain what is going to happen.
- The employee (and/or their representative) will present their case to the director. The manager and the director, including the HR Services rep, will have the opportunity to ask any questions.
- The manager will put the case to the director. The employee (and/or their representative) and the director, including the HR Services rep, will have the opportunity to ask questions.
- Both sides will sum up their cases (no new information can be introduced at this stage).
- Both sides will adjourn while the director considers the information and makes his/her decision.
- The director will ask both sides to return and inform the employee of their decision.
- Appeals will be conducted in a manner which takes account of the potential distress for the employee.

5.6.5 The director should reach a decision and confirm this in writing within 5 working days of the appeal hearing, with a copy to HR Services.

- 5.6.6 In the event of new medical information being presented by the employee the director may decide to adjourn the hearing pending further advice from OH.

## 5.7 **EARLY RETIREMENT ON THE GROUNDS OF ILL HEALTH**

- 5.7.1 An employee who has been a member of the Local Government Pension Scheme for at least three months and is dismissed due to ill health may be entitled to immediate payment of pension and lump sum. The three tiers of ill health retirement are detailed in Appendix 3. Early advice from HR Services is required if ill health retirement is considered as an option.

## 5.8 **REFERRALS TO OCCUPATIONAL HEALTH**

- 5.8.1 The role of the OH service is to provide guidance on managing health problems at work as well as the rehabilitation of employees following illness, for example advising managers about workplace adjustments that may be required to facilitate return to work.
- 5.8.2 Managers do not need to wait until a trigger point is reached before referring an employee. Neither is it a requirement that an employee is referred when a trigger point is reached. Each case is assessed on its merit.
- 5.8.3 The referral process is contained in Appendix 4. Referrals should be made using the Occupational Health Referral Form (available on the intranet). It is important that the employee understands why occupational health advice is being sought. Prior to referral, the manager should discuss the referral and reasons with the employee.
- 5.8.4 If OH considers that information from the employee's GP and/or specialist would be useful, they will discuss this with the employee and seek their consent. Should the employee withhold their consent (or withhold their consent to be referred to OH) then the council will make decisions on the basis of the information available.
- 5.8.5 Following the appointment, OH will provide a report that is sent to the manager, HR Services and the employee (who is responsible for forwarding a copy to their representative.) The medical advice they provide and the advice from HR Services will help managers make informed decisions about managing attendance.

## 6. **TIME OFF FOR MEDICAL APPOINTMENTS**

- 6.1 **Medical and dental appointments should be made outside of school, or working hours or during school holidays. The only exceptions to this requirement will be in the event of an emergency or particular difficulty, or in relation to hospital appointments which are rarely negotiable.**

Note: The requirements in relation to medical and dental appointments do not apply to ante-natal appointments. Any pregnant employee has the right to be paid time off to attend ante-natal care.

## 7. **RECORD KEEPING AND MONITORING**

- 7.1.1 Managers are responsible for completing absence returns for the employees in their section. Each directorate should have a number of designated officers who should record the information on the weekly Sickness Absence Returns (SARs) (forms and guidance are available on the intranet) and e-mail them to human

resources via [HRAdmin@herefordshire.gov.uk](mailto:HRAdmin@herefordshire.gov.uk) and payroll via [payroll@herefordshire.gov.uk](mailto:payroll@herefordshire.gov.uk) .

- 7.1.2 Once recorded on the SARs form, Statements of Fitness for Work should be sent to human resources for retention in personal files.
- 7.1.3 Quarterly absence reports should be provided to directorate management teams and HR Services so that levels of sickness can be monitored.
- 7.1.4 MA2 Return to Work interview forms when completed should be retained by the manager with a copy to the employee.
- 7.1.5 Individual employee records must be relevant, accurate, confidential and secure. Sickness (and injury) records contain sensitive data and should be kept separate from absence records which record reasons for and duration of absence.
- 7.1.6 The council and its OH service will at all times comply with the regulations relating to the Access to Medical Records Act which require,
  - consent of the employee before applying for a medical report,
  - informing the employee of their rights under the act, and;
  - notifying the medical practitioner if the employee wishes to see the report before it is supplied to the council.

## **8. ABSENCE DUE TO DISABILITY**

- 8.1 There are two further categories of absence which are available only to employees who are disabled according to the definition in current legislation. These are disability-related sickness absence, and disability leave.
- 8.2 In order to take either disability-related sickness absence, or disability leave, an employee must identify as disabled on their personnel record by contacting HR services or by using the Agresso self-service facility (when available). The employee must also have an initial meeting with their line manager, so that both parties are clear about the impact that the employee's impairment has on their day-to-day life, and what support they might need in the workplace. It is important to keep a record of any support requirements and reasonable adjustments that have been agreed.

### **Disability-related sickness absence**

- 8.3 An employee may have a sickness absence that is directly related to their disability. This should be recorded as disability-related sickness absence to enable it to be distinguished from other sickness absence. As with other sickness absence, MA1 self-certification forms or Statements of Fitness for Work should be provided and a return to work interview carried out.

Examples of disability related sickness absence include:

  - An episode of a pre-existing medical condition relating to the disability (this could include mental ill health)
  - Pain related to the disability
- 8.4 Disability-related sickness should be recorded by line managers on the SARS form using the appropriate Disability-Related Sickness Absence field or by using the Agresso self-service facility (when available).
- 8.5 Normal entitlement to sickness pay will apply. In other words, disability-related sickness absence will be included when calculating sick pay limits.

- 8.6 Disability-related sickness absences will count towards trigger levels. This enables managers and employees to have a discussion about reasonable adjustments and review the level of support being provided to assist people to work.

### **Disability Leave**

- 8.7 Disability leave is different to sickness absence. Disability leave enables an employee to have reasonable time off for a disability-related reason when the employee is not actually ill. This may be planned or unplanned. Disability leave is unpaid. In exceptional circumstances it would be possible to discuss whether any special leave with pay may be appropriate.
- 8.8 Examples of planned disability leave may include
- Training with Guide or Assistance dog
  - A period of time to allow a newly disabled employee to adapt to their new circumstances
  - A period of time off work while reasonable adjustments are made to the workplace
- 8.9 Examples of unplanned disability leave may include the breakdown of necessary support arrangements such as Personal Assistant off sick, lift breakdown or problems with assistance dog.
- 8.10 Disability leave should be recorded by line managers on the SARS form using the appropriate field or by using the Agresso self-service facility (when available).
- 8.11 It is important that managers and employees discuss such absences on a regular basis in 1:1s to review the level of support being provided.

### **Reasonable adjustments**

- 8.12 The purpose of a reasonable adjustment is to meet legal requirements to ensure that a disabled employee is not disadvantaged in the workplace. Every effort will be made to consider provisions to enable a disabled employee with the same access to everything that is involved in doing and keeping a job as a non-disabled person. If poor attendance or performance of a disabled employee is a cause for concern, then it may be that reasonable adjustments need to be made to ensure that they can fulfil their job role.
- 8.13 Further guidance is available from Occupational Health and HR services.
- 8.14 The manager and employee should review agreed adjustments through 1:1 discussions and at least annually as part of the performance appraisal discussions to ensure they are still fit for purpose. Agreed adjustments should be recorded on Agresso.

## **9. NOTES**

- 9.1 The timescales to complete the stages listed above will be adhered to wherever possible but are not binding on the council.

- 9.2 The Grievance Procedure should not be used for appeals against attendance decisions. If, however, an employee has a complaint about the behaviour of a manager during the course of a matter within the scope of this policy they may raise it as a grievance. If necessary the attendance matter may be suspended for a short period until the grievance can be considered.
- 9.2 The council reserves the right to seek assistance from suitably experienced and/or qualified external experts at any stage in the procedure, in the interests of seeking a satisfactory outcome for all those concerned.
- 9.3 Where the employee is a representative of a Trade Union the matter will be discussed with a full time officer prior to any formal meeting under this policy taking place, subject to agreement by the employee (note this requirement does not include Return to Work interviews).
- 9.4 **Attendance at formal review interviews.** If the employee fails to attend a formal interview circumstances beyond their control and unforeseeable at the time the meeting was arranged (e.g. sickness), the council will rearrange it. A decision may be taken in the employee's absence if they fail to attend a rearranged meeting without good reason. If the employee's workplace or trade union representative cannot attend on the proposed date, the employee will suggest another reasonable date normally no more than five working days after the date originally proposed. The five day limit may only be extended by mutual agreement.
- 9.5 Action initiated under one procedure may be changed to an alternative procedure if investigation of the circumstances indicates this would be more appropriate.
- 9.6 Copies of the policies and procedures referred to in this document are available from the intranet, your manager, or HR Services.
- 9.7 If you need further assistance with this document please refer to your line manager or HR Services.
- 9.8 Under certain circumstances NJC and JNC conditions provide for the suspension of occupational sick pay where abuse of the sick pay scheme is believed to have occurred. Such action can only be taken by an assistant director or above, with advice from HR Services. Where suspension is applied the employee will have the right of appeal to the director using the appeals procedure in this document.

## **10. COMPLIANCE**

- 10.1 Failure to follow this procedure may impact on good employee relations and the reputation of the council as a good employer. In addition, it may result in the council breaching employment legislation, incurring financial penalties and / or damage to its reputation
- 10.2 Managers who fail to manage in accordance with this policy will be investigated and this may lead to formal action under the Managing Performance or Disciplinary Policy and Procedure

## **11. IMPACT ON THE COUNCIL'S KEY PRIORITIES**

- 11.1 The policy provides clear statements about manager and employee responsibilities to ensure that the attendance of all council employees is of a high level. This underpins service provision and enables the council to effectively meet its key priorities.

## **12. TRAINING AND AWARENESS REQUIREMENTS**

- 12.1 Managers and employees will be informed about this policy and procedure via communication channels such as team talk and first press.
- 12.2 HR Services will liaise with directorate management teams to establish and agree support arrangements to assist managers to carry out their responsibilities in para 4.

## **13. MONITORING**

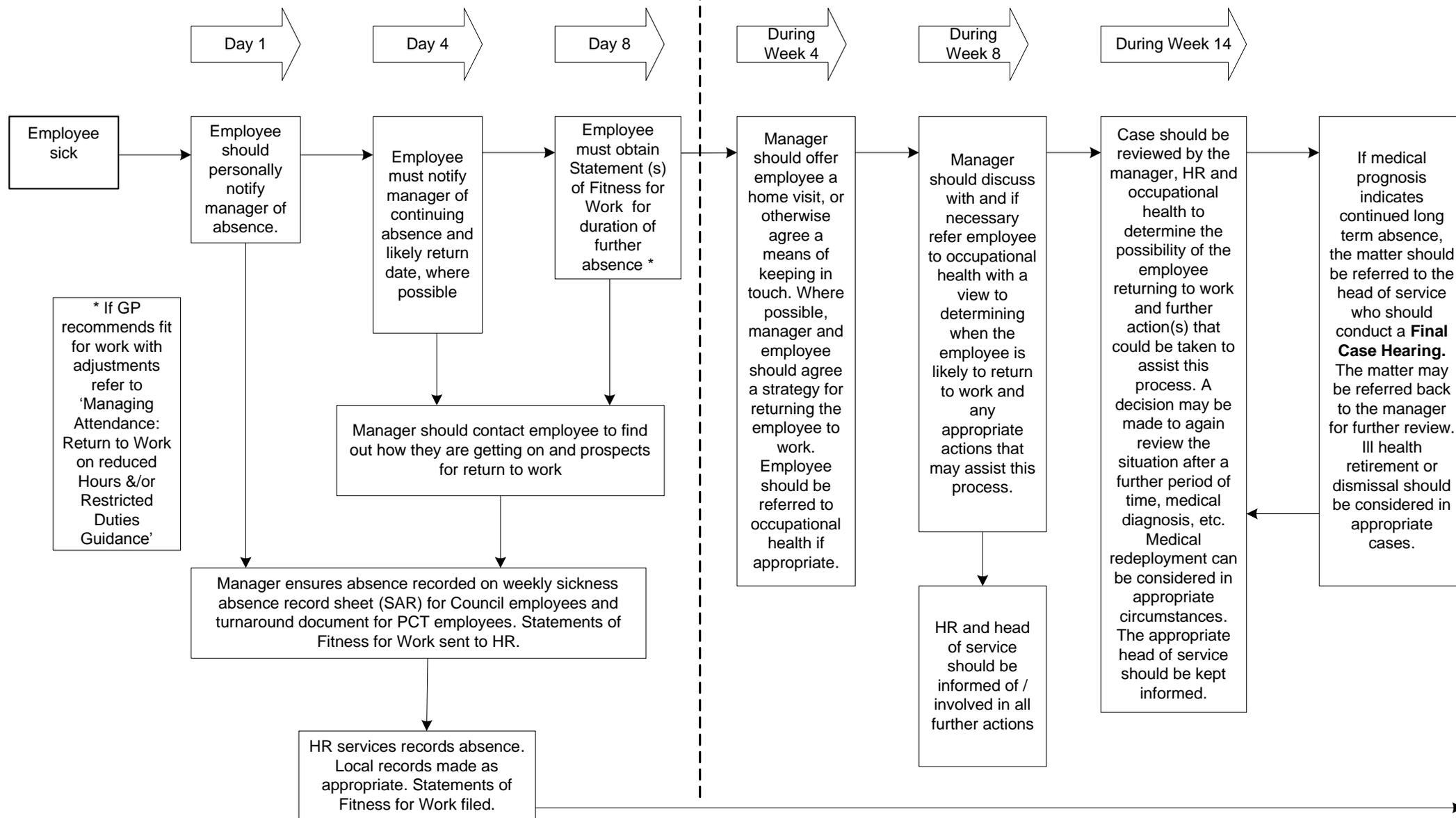
- 13.1 The HPS Leadership Team is responsible for ensuring the implementation and review of this policy and procedure.
- 13.2 The Head of HR Services will be notified of any cases where it is concluded that the policy was breached. The notification will indicate whether there are any changes or improvements required to the policies, procedure, training, support or any other aspect of the council's approach to managing attendance matters.
- 13.3 HR Services will monitor the effectiveness of the policy through information received via feedback from managers and employees through, for example, management team meetings and the Employee Opinion Survey and exit interviews, as well as the numbers of employees using this procedure.

## **14. REVIEW**

- 14.1 This document will be reviewed in 2014 unless circumstances demand a review before then.

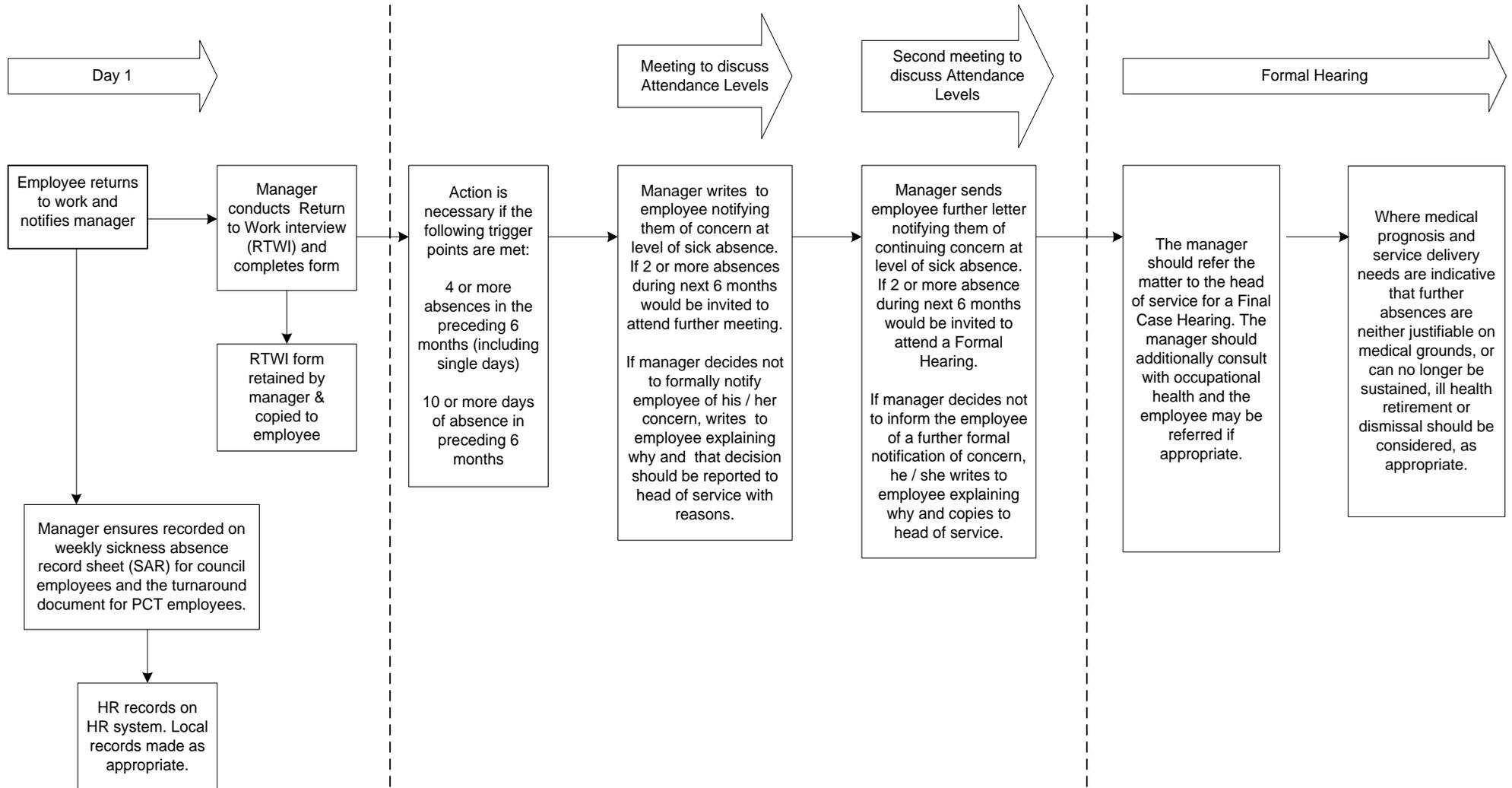
## REPORTING ABSENCE

## CONTINUING SICKNESS ABSENCE



# RETURN TO WORK

# FREQUENT SHORT TERM ABSENCES



## STRUCTURE FOR FINAL CASE HEARING

The following guidance provides the structure for a final case hearing, which may lead to a serious outcome for the employee and could give rise to appeal. It remains important to maintain a constructive rather than adversarial approach with a view to finding means by which the employee can meet the attendance levels required/return to work within an acceptable timescale, or where alternatives to dismissal can be considered. New information may be provided by the employee and the assistant director should be careful to enquire whether there are any personal issues and/or new medical issues affecting the employee's attendance that have not yet been disclosed.

Following introductions:

1. The assistant director or manager dealing with the previous stages will present the case in the presence of the employee and their representative. This will include a description of the levels/period of absence, occupational health advice received, the actions taken to date, progress made, how mitigating factors (if any), have been taken into account, and continuing difficulties. They will be supported by HR Services to provide advice and guidance.
2. The employee and/or their representative may ask questions of the assistant director /manager on the evidence presented.
3. If the assistant director is chairing the meeting they may ask questions of the nominated manager, as may the HR Services rep.
4. The employee and/or their representative will present their case in the presence of the nominated manager/assistant director. This may include new factors not previously discussed including reasons in mitigation.
5. The nominated manager may ask questions of the employee and/or representative on the evidence presented.
6. The assistant director/HR Services rep may ask questions of the employee or their representative.
7. The nominated manager or assistant director may choose to summarise their case.
8. The employee or their representative may choose to summarise their case.
9. There will be a final check to ask the employee if there is anything else that might be relevant that they have not raised.
10. There will be an adjournment whilst the assistant director and HR Services rep consider the outcome. The conclusion of the hearing may be postponed to consider new facts, seek medical advice if further health problems are disclosed, or to consider alternatives such a redeployment, adjustments, ill health retirement, etc.
11. On reconvening, the assistant director will verbally inform the employee and their representative of their decision, which will be confirmed in writing.

## ILL HEALTH RETIREMENT (IHR)

This appendix sets out the main issues in relation to an employee retiring on the grounds of ill health. In all potential cases the manager **must** consult with Human Resources to ensure the requirements of the Local Government Pension Scheme (LGPS) regulations are met, and in order that the council can seek the necessary advice of both Occupational Health and the local pensions authority.

1. An employee who has been a member of the LGPS for at least three months may qualify for IHR, and as a result be entitled to payment of pension and a lump sum. LGPS provides for three tiers of retirement in such circumstances when sanctioned by a qualified Occupational Health Physician (OHP).
2. **Tier One.** Employees will receive a 100% enhancement to their accrued retirement benefits on leaving the council following a decision by the OHP that they are permanently incapable of their local authority employment and are not likely to work in any other employment before the normal retirement age (NRA) of 65.
3. **Tier Two.** Employees will receive a 25% enhancement to their accrued retirement benefits on leaving employment of the council following a decision by the OHP that they are permanently incapable of their current local authority employment but who are likely to become capable of gainful employment at some stage prior to NRA.
4. **Tier Three.** Employees will receive their annual accrued benefits payable as a pension on leaving the employment of the council following a decision by the OHP that they are permanently incapable of their local authority employment but judged to be capable of gainful employment within a reasonable time period after leaving that employment. In this case “gainful employment” is defined as paid employment for not less than 30 hours in each week for a period not less than 12 months, and “reasonable time period” is defined as 3 years.
5. The pension payable under Tier Three will be payable for such time as the member does not obtain gainful employment as defined above or until the local authority employer stops the payments following a review.
6. The authority will undertake such a review when benefits under Tier Three have been paid for 18 months. If the authority decides from the information provided that gainful employment had been obtained payments will be stopped. If the review finds the member had not found gainful employment the council will seek further opinion from the OHP concerning the condition which resulted in the third tier award. This may result in payment being stopped (immediately or at a future date specified by the OHP), or a change in status being granted to a tier two pension (and the date which this becomes effective). Any overpayments to a third tier member may be recovered by the council.
7. When IHR is contemplated detailed advice must be sought from HR including advice on any transitional arrangements or protection that may apply under LGPS regulations.

**OCCUPATIONAL HEALTH REFERRAL PROCESS**

