



**PROCEDURE FOR THE CONDUCT OF A DISCIPLINARY, CAPABILITY  
ISSUE BY THE COUNCIL OR A COMMITTEE THEREOF AS APPLICABLE  
TO CHIEF OFFICERS.**

**INVESTIGATING COMMITTEE**

**PARTICIPANTS**

The parties will be Elected Members of the Council other than those appointed to the Appeals Committee advised by the Director of Legal, Public Protection and Housing and the Head of Human Resources or their nominees, the employee and his/her representative, the Chief Executive or his/her nominated representative and his/her advisor.

**APPOINTMENTS**

The Chairman and Vice-Chairman will be appointed by the Elected Members of the Committee immediately prior to the commencement of the proceedings [the identity of which will be declared to both parties during the formal introductions within the procedure].

**PROCEDURE**

The employee will be given notice in writing at least ten days in advance of the time and place of the interview and shall be allowed to be represented by the Trade Union representative or some other person of the employee's choice. The employee will be enabled to call witnesses and to produce documents relevant to circumstances under consideration.

The following procedure will be followed for the interview :-

- [a] The Chairman shall invite all parties to introduce themselves.
- [b] The Chief Executive or nominee or advisor will put forward the Council's case in the presence of the employee and his/her representative and call relevant witnesses and produce relevant evidence as he/she wishes.

- [c] The employee and the employee's representative will be given the opportunity to ask questions of the Chief Executive's or nominated representative on the evidence presented by him/her and of any witnesses who he/she may call.
- [d] Members of the Investigating Committee may ask questions of the Chief Executive or nominated representative and any witnesses.
- [e] The employee and/or the representative to put forward the employee's case in the presence of the Chief Executive's or nominated representative and to call relevant witnesses and produce relevant evidence as he/she wishes.
- [f] The Chief Executive or nominee or advisor to have the opportunity to ask questions of the employee and any witnesses.
- [g] Members of the Investigating Committee may ask questions of the employee and witnesses.
- [h] The Chief Executive or nominee or advisor and then the employee or his/her representative to have an opportunity to sum up their case if they so wish.
- [i] The parties representing the Chief Executive and the employee to withdraw.
- [j] The Investigating Committee, with the Director of Legal, Public Protection and Housing and the Head of Human Resources or their nominee(s) to deliberate in private, only recalling the employee and representative(s) or the Chief Executive's or nominated representative and advisor or relevant witnesses to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point given rise to doubt.
- [k] The Investigating Committee's decision may be notified verbally to the employee at the Investigating Committee's conclusion of the hearing and subsequently confirmed in writing. Alternatively, the employee may be notified in writing at a later date, as determined by the Committee.
- [l] The decision of the Investigating Committee will be reported for information purposes to the next ordinary meeting of the Council.

\* EXTRACT TAKEN FROM  
THE CHIEF OFFICERS CONDITIONS OF  
SERVICE HANDBOOK \*

**PART FOUR - DISCIPLINE, CAPABILITY AND REDUNDANCY**

- 63 In general, informal conciliation is to be preferred to formal procedures if it can bring about a mutually agreed solution to the problems that have arisen. Such solutions should make it clear what specific changes in behaviour and/or performance are expected and within what timescales.
- 64 The Joint Secretaries (or their representatives) are available at any stage in the procedures to act in an impartial conciliation role, whether formal or informal if required to do so by the local parties.
- 65 The principles of natural justice and good management practice must govern the conduct of any proceedings against a chief officer on the grounds of either alleged misconduct (i.e. 'discipline') or an alleged inability to carry out their role (i.e. 'capability'). Authorities should have full regard to the principles and standards set out in the ACAS Code of Practice on Disciplinary Procedures. The following principles, which are consistent with ACAS guidance on good practice, should be used as the framework for developing a more detailed local process. Where authorities already have local procedures agreed for this group of staff they must ensure their procedures operate in a manner consistent with the following principles.

Notes 1 Any authority employing a chief officer as head of the paid service should have regard to the legal requirements regarding discipline imposed by the Local Government and Housing Act 1989. Authorities in this position should refer for guidance to paragraph 16 of the Conditions of Service for Chief Executives.

2 Those authorities wishing to incorporate the role of an independent third party, in an advisory or decision making capacity, may refer for guidance to paragraph 16 in the Chief Executives Condition of Service. This may be specifically appropriate where the officer holds a post with statutory accountabilities.

**OBJECTIVES OF A DISCIPLINARY PROCEDURE**

- 66 A disciplinary procedure will:
1. encourage employees to achieve and maintain standards of behaviour;
  2. provide a fair and consistent method of dealing with alleged failure;
  3. remind managers and supervisors how disciplinary matters should be handled;
  4. minimise disagreements about disciplinary matters;
  5. reduce the need for dismissals.
- 67 What form will it take?

The procedure should be tailored to the needs of the local authority, but it must:

1. be in writing;
2. not discriminate on grounds of gender, race, age, nationality, sexuality or disability;
3. specify to whom it applies;
4. explain the potential penalties;
5. deal with matters quickly;
6. give employees the right to be accompanied by a trade union representative or friend (subject to an individual's prior involvement);
7. give employees, and /or their representative, the right to put their side of the case, and to call witnesses;
8. specify who has the authority to take disciplinary actions;
9. ensure that action is not taken without careful investigation;
10. provide a right to appeal;
11. give clear details of time scales and any deadlines associated with the various stages of the procedure.

## **MODEL PROCEDURE**

### **(PRE-HEARING ACTION) PRELIMINARY INVESTIGATION**

- 68 The purpose of a preliminary investigation is to determine if a question of discipline exists which, if established, could not be resolved informally, e.g. though an unrecorded informal warning.
- 69 Ensure all parties, e.g. the chief executive/elected members, who are required to use the process, are fully trained in its operation.
- 70 Before progressing to a formal Investigating Committee hearing, the council will need to be certain that:
1. the chief officer has been notified, preferably in writing, of the allegations which are being investigated and given the opportunity to make representations on their behalf;
  2. the matter cannot be resolved through informal counselling;
  3. the individual has been interviewed by the appropriate manager and afforded right to be represented by their trade union or accompanied by a fellow employee of their choice. Care must be taken not to compromise individuals who may be interviewed at a subsequent stage in this procedure;
  4. it has been determined whether or not suspension is appropriate.
- 71 Where the preliminary investigation determines that there is a potential case to answer, an Investigating Committee will be established. The Investigating Committee should include no fewer than three elected members and should not include any member or officer with at direct personal involvement in the complaint or who participated in the preliminary investigation.

## **SUSPENSION**

- 72 Where the chief officer's continuing presence at work compromises the investigation or impairs the efficient exercise of the Council's functions, the chief officer may (subject to whatever consultation or approval may be required under the authority's standing orders) be suspended from duty. The Council, or appropriate committee or the chief executive, acting under delegated powers, may carry out such suspension on full pay. Written notice stating the reasons for any such suspension shall be given at the earliest opportunity possible.
- 73 The necessity for the chief officer to remain suspended should be reviewed at regular intervals and where possible lengthy periods of suspension should be avoided.

## **THE DISCIPLINARY HEARING**

- 74 The chief officer will receive not less than ten working days written notice of the Investigating Committee's meeting. Before the meeting the chief officer has the right, if so requested, within a reasonable time, (i) to receive further details of the complaint made and/or (ii) to a postponement of the meeting for a jointly agreed period not exceeding 14 days. The chief officer may circulate a written statement to the Investigating Committee before the hearing.
- 75 At the meeting, make sure that:
1. the employee concerned knows the details of the allegation;
  2. he or she has the opportunity to put his or her side of the matter.

The Investigating Committee can:-

1. exonerate the chief officer;
2. state their opinion as to whether (and if so the extent to which) the evidence they have obtained supports any allegation of misconduct against the chief officer;
3. determine the disciplinary action (if any) or range of actions which appear appropriate to take against the chief officer. The appropriate course of action will be drawn from the following list:-
  1. recorded oral warning;
  2. written warning;
  3. suspension on half pay or no pay for a specified period;
  4. relegation (i.e. a reduction in salary ) for a specified period;
  5. an invitation to resign or accept retirement;
  6. dismissal with notice.

The final decision will be given to the chief officer in writing at the earliest opportunity following the hearing.

If a warning is given, it should tell the employee:

1. the level of improvement required;
2. the date by which it is to be achieved;
3. what will happen if it is not;
4. how to appeal.

Alternatively the Panel may explore other alternatives, e.g.

1. early retirement;
2. secondment;
3. redeployment to a more junior post where there are issues relating to capability.

## **GROSS MISCONDUCT**

- 76 When a case appears to be one of gross misconduct, normally the chief officer should (subject to whatever consultation or approval may be required under the authority's standing orders) be suspended from duty on full pay. The procedure for the investigation will be as set out above.

## **APPEAL PROCESS**

- 77 It is consistent with good practice to establish a procedure for the chief officer to appeal against the outcome of the Investigating Committee hearing. In this context it is suggested that the chief officer is allowed a full right of appeal to either the council itself or another committee. The procedure for an appeal hearing should follow the model above. Members who participated in the previous investigation may attend to give evidence but must be excluded during the consideration of the decision of the council or committee.

Note At the appeal stage those authorities wishing to incorporate the role of an independent third party should see the earlier note at paragraph 65.

## **CAPABILITY**

- 78 Where appropriate, a preliminary investigation, as detailed in paragraph 68, should be undertaken where there is any question or complaint regarding the capability of a chief officer.

Note The procedure for capability may need adaptation where medical fitness is in question. Authorities should bear in mind the advantage of a third medical opinion where their own medical adviser and that of the chief officer are not in agreement.

- 79 If the Chief Executive or other person undertaking the preliminary investigation concludes that there is a question of substance as to the chief officer's capability, he should advise the chief officer informally of the nature of that question. There should be a full discussion covering:
1. The reason for incapability;
  2. Problem areas;
  3. What needs to be done to improve performance, including any opportunities for training the chief officer;
  4. Time frames over which improvements should be shown;  
(Unless there has been a previous warning or there is evidence of serious incapability which is not likely to be remedied within a reasonable time);
  5. When it is felt that there is no prospect of improving the chief officer's performance a satisfactory outcome may be achieved by the chief officer undertaking actively to seek other employment, resigning or accepting retirement.
- 80 At capability hearings an officer subordinate to the chief officer may give evidence of fact. Where the parties disagree on technical or professional matters it may be useful to refer to an appropriately qualified independent third party.
- 81 Any time period should be sufficient to allow a reasonable opportunity for the chief officer to show either an improved performance or that the conclusion of the preliminary investigation was mistaken.

## **REDUNDANCY**

- 82 Employing authorities should consult with any chief officer affected at the earliest possible stage when there is a suggestion that the chief officer's post might be abolished or proposed for abolition.
- 83 If after such consultation a proposal is formulated to abolish the chief officer's post, the procedure of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, requiring consultation with trade unions, should be followed, the required statutory information being sent to the chief officer and to each independent trade union recognised by the employers for collective bargaining purposes for the chief officer. A period of not less than twenty-eight days should be allowed for the statutory consultation process. The chief officer and a trade union representative should also be afforded an opportunity of making oral representations to the Committee or Council meeting concerned before a final decision is made.

- 84 If following such consultations the authority decide that the post must nevertheless be abolished, the officer should be offered any suitable alternative employment that may be available or which may become available in consequence of the re-organisation giving rise to the abolition of the chief officer's post.
- 85 The authority should also bear in mind the possible application of discretionary powers of premature retirement, and permissible enhancement of benefits or redundancy payments, and the possibilities of providing an alternative post or of extending the period of notice to assist the chief officer in finding other employment.



**VALE OF GLAMORGAN COUNCIL  
MANAGING ATTENDANCE AT WORK**



This document is also available in large print and other formats upon request.

## **1. INTRODUCTION AND PURPOSE**

- 1.1 The Vale of Glamorgan Council recognises the importance of supporting the attendance of employees at work. High levels of attendance are essential in the delivery of services to our customers and in maintaining the health, well-being and effective contribution of our workforce. This policy has been designed to support the approach and to set out key responsibilities and processes.

## **2. SCOPE**

- 2.1 This policy applies to all Council employees with the exception of:-
- Elected Members
  - School based staff directly employed by the school
  - Agency staff (i.e. those not contractually employed by the Council)

## **3. DEFINITIONS**

- 3.1 In this document the term "Line Manager" is used to describe any employee who is responsible for the management of staff. Chief Officers encompass Directors, Heads of Service and Operational Managers. References to days lost through sickness absence should be applied pro-rata for part time employees.

## **4. RESPONSIBILITIES OF LINE MANAGERS**

- 4.1 In relation to this policy there will be an expectation on all managers to:
- Strive for high levels of staff attendance within their service area
  - Support the attendance and well-being of employees at work
  - Support the early but safe return to work of employees from sick leave
  - Oversee the sensitive management of employees that cannot return to work
  - Operate the attendance policy fairly and consistently
  - Monitor the attendance levels within their section on a monthly basis

## **5. RESPONSIBILITIES OF EMPLOYEES**

- 5.1 In relation to this policy there will be an expectation on employees to:
- Strive to ensure their own high levels of attendance at work
  - Comply fully with the reporting arrangements within the policy
  - Do all they can to minimise periods of absence
  - Do all they can to ensure an early but safe return from any sick leave
  - Look after their own health, safety and wellbeing in the workplace

## 6. ATTENDANCE MANAGEMENT PROCESS – KEY PRINCIPLES

- 6.1 High levels of attendance are essential for the effective delivery of services and the health and well-being of our workforce. Managers and staff should do all they can to strive for (and maintain) good levels of attendance.
- 6.2 This policy is based on the premise that all correctly reported sickness absence is for genuine reasons and that all appropriate support should be given to enable employees to return to work safely and as early as possible.
- 6.3 The policy is not appropriate where there is reason to believe that the absence is not for genuine reasons or that the policy is being willfully disregarded. In such circumstances referral should be made to the Council's disciplinary procedure
- 6.4 The policy is also based on the premise that the Council is a provider of services and positions cannot be held open for an indefinite period. There will be times when it will be necessary to end the employment of employees if their absence from work is negatively affecting service delivery.
- 6.5 The effectiveness of the policy will depend on an underpinning performance management system. As part of this it will be important for:
- Heads of Service to review attendance levels on a monthly basis
  - Corporate Management Team to review attendance levels on quarterly basis
  - Cabinet to review attendance levels on a six monthly basis
- 6.6 Employees are entitled to be accompanied at all formal management of attendance meetings by either a work colleague or a trade union representative.
- 6.7 The policy seeks to distinguish between the management of staff on short term intermittent absence and long term chronic absence. There will be occasions however where the Line Manager needs to take an overall view of an employee's absence record and pursue action accordingly.
- 6.8 Issues discussed as part of the management of attendance policy together with related medical certificates and documentation should be treated confidentially.

## 7. ABSENCE REPORTING PROCEDURES

- 7.1 All employees must comply with the following absence reporting procedure:-

DAY 1	Where an employee is absent from work due to sickness, he/she must notify his/her Line Manager (or other designated officer) before the start of the working day/shift. Where immediate cover arrangements will need to be organised, this must be at least 1 hour before the start of the day/shift or in accordance with locally agreed arrangements. The employee should advise their manager of the reason and likely duration of the absence and the work commitments for that day
DAY 4	On the fourth calendar day of absence the employee must contact their Line Manager (in accordance with the times as set out above) to provide an update on their absence.

DAY 8	On the eighth calendar day of absence a doctor's medical certificate should be forwarded promptly and the employee must telephone their Line Manager (in accordance with the times as set out above). To allow for postage, the certificate must be received by at least the 14 <sup>th</sup> day of absence.
-------	---

7.2 Failure to comply with the sickness reporting procedures will usually result in the absence being considered as unauthorised absence for which payment will not be made and the matter referred through the disciplinary procedure.

**8. ENTITLEMENT TO SICK PAY**

8.1 During the period of an employee's sickness absence their contractual sick pay entitlement will be in accordance with the relevant negotiated terms and conditions of employment and the provisions of this Policy.

**9. IMPORTANCE OF THE WELCOME BACK TO WORK MEETING**

9.1 A welcome back to work meeting must be undertaken by the Line Manager after each occasion of absence. It is important that this takes place on the first day of an employee's return to work or, by exception the nearest day thereafter.

9.2 The purpose of the interview is to welcome the employee back to work, check they are fit to return and ensure all necessary medical certificates and related forms are completed. It is also the opportunity for the Line Manager to review the absence record and explore any avenues of required support or action.

9.3 Any action must be summarised appropriately on the Welcome back to work Sickness absence notification/return to work form and then sent to the HR Service Centre/Transact in the Civic Offices. All such information must be kept confidential.

**10. MANAGEMENT OF ATTENDANCE – INTERVENTION TRIGGERS**

10.1 The need to review an employee's absence will generally be prompted by sickness absence levels which hit the following trigger points. The management of such reviews is set out in sections 11, 12 and 13 below.

1	4 absence periods in a rolling 12 month period
2	10 non-continuous working days or more in a rolling 12 month period
3	Emerging long-term/chronic absence (e.g. beyond 4 weeks)
4	Combined periods of short and long term absence
5	Unusual patterns of attendance (e.g. before/after weekends)

**11. MANAGEMENT OF SHORT-TERM INTERMITTENT ABSENCE**

11.1 This is where an employee has short periods of intermittent and often unpredictable sickness absence which may or may not be covered by medical certificates. The procedure for managing such absence is detailed below.

**Informal Stage**

If as part of the welcome back to work meeting it is identified that an employee's absence is starting to become a cause for concern it is important that this is

raised in that conversation. This will provide an early opportunity to explore any underlying or emerging reasons for the absence, highlight the importance of good attendance and provide support as appropriate. This may include a referral to Occupational Health or plans made for a workplace assessment.

The discussion will also provide an opportunity to advise the employee that their absence level is a cause for potential concern and that without an improvement it will be necessary to make a referral to the formal stages of the procedure.

The outcome of the above discussion should be clearly recorded in the sickness absence/return to work form and any agreed interventions pursued.

### **Formal Stage 1**

A formal stage 1 attendance review meeting will be held with an employee where their absence pattern continues to be of concern and the relevant triggers set out in 10.1 have been met.

The meeting will be chaired by the line manager and provide an opportunity to:-

- Discuss the reasons for the continued absence and its impact on the service
- Set out the required improvements to the employee's attendance levels
- Explain the consequences of a failure to meet the improvement standards
- Pursue support measures as appropriate (see section 16).

Actions arising from the formal meeting will be confirmed, in writing in the form of a Formal Advisory Notice. This will stay on the employee's personnel file for 12 months. This letter will draw the employee's attention to the possible impact on the future employment of the employee should the attendance not improve.

### **Formal Stage 2**

A formal stage 2 attendance review meeting will be held with an employee where their absence pattern continues to be of concern (i.e. the pattern of absence as set out in the triggers at section 10 have continued).

The meeting will be chaired by an Operational Manager/Head of Service and provide the opportunity to:-

- Discuss the reasons for the continued absence and its impact on the service
- Set out the required improvements to the employee's attendance levels
- Explain the need to review the employee's continued employment if the required improvement standards are not met
- Pursue support measures as appropriate (see section 16).

Actions arising from the formal meeting will be confirmed in writing in the form of a Final Formal Advisory Notice. This will stay on the employee's personnel file for 18 months. This letter will draw the employee's attention to the likely consequence of dismissal if the employee's attendance should not improve.

### **Final Review Meeting Stage 3**

If the pattern of poor attendance continues during the 18 month review period the employee will be required to attend a formal stage 3 meeting chaired by a Director or Head of Service/Operational Manager. See details at section 14.

## **12. MANAGEMENT OF LONG TERM/CHRONIC ABSENCE**

- 12.1 Long term sickness absence is usually categorised as a period of medically certified sickness absence which is continuous for at least four weeks and is likely to be ongoing.
- 12.2 Line Managers will be expected to take a case by case approach to the circumstances presented, basing such approach on a sequence of consultation/support meetings, attempts to understand the underlying medical issues and exploration of appropriate support interventions.
- 12.3 Some discretion will be needed in respect of the scheduling of review meetings but it is expected that the following schedule should be a minimum requirement.

### **Following four weeks of continuous absence**

After four weeks the Line Manager should invite the employee to a review meeting. This should be confirmed in writing and take place at the employee's home or workplace if their medical condition allows.

The meeting will help to gain further information about the absence, confirm the need for a referral to Occupational Health and respond to any concerns raised by the employee. It will be important to make a referral to Occupational Health in order that advice can be obtained in relation to:-

- the likely length of absence
- the long term effects on performance
- any proactive support/intervention

The outcome of the informal absence review meeting should be confirmed to the employee in writing and any agreed interventions pursued.

### **Stage 1: Not later than 10 weeks of continuous absence**

On receipt of the Occupational Health report a further meeting will be arranged by the Line Manager in order to review the absence, the information and advice received from Occupational Health.

At this meeting consideration should be given to the timescales of the employee's likely return to work, their ability to undertake the full range of their duties on return and the impact of the employee's absence on the service. Based on this it will be necessary to consider options including:-

- a/ The employee being expected to be fully fit and return to work in the short-term. This may need to be facilitated by appropriate support as advised by Occupational Health. A further date will need to be set to review the progress of this option (no later than 10 weeks following the current meeting).
- b/ The employee not being expected to be fully fit and returning to work in the short-term and needing a further review by Occupational Health or external medical intervention/review/support. A further date will need to be set to review any further information received or the expected date of receipt of that information (no later than 10 weeks following the current meeting)

Actions arising from this meeting will be confirmed, in writing. Based on the employee's absence up until this point and the circumstances of the case it may be necessary to advise the employee that there is a concern about the employee's absence and its impact on service delivery. The employee should be advised that the absence will be reviewed at the next meeting and the outcome of any agreed interventions or support mechanisms.

### **Stage 2: Not later than 20 weeks of continuous absence**

A further meeting will be necessary to review the employee's absence following the actions agreed at the stage 1 meeting. The meeting will be chaired by the employee's Operational Manager/Head of Service.

At this meeting consideration should be given to the effect of the interventions progressed since the last meeting, any additional medical information received, the timescales of the employee's likely return to work and/or their ability to undertake the full range of their duties on return. Specific consideration will need to be given to the impact of the employee's absence on the service.

Based on the above it will be necessary to consider options including:-

- a/ The employee being expected to be fully fit and return to work in the short-term. This may need to be supported / confirmed by appropriate advice from Occupational Health and any supportive interventions.
- b/ No indication or evidence of the employee being fit enough to return to work in the foreseeable future.

Actions arising from this meeting will be confirmed, in writing. Whilst acknowledging the health concerns for the employee it will be necessary to advise him/her that there is also an increasing concern about the number of days lost and the inevitable impact of such on service delivery.

In the circumstances of a/ above the employee will be advised that their absence will be monitored and reviewed in the context of the actions agreed at the meeting. The employee should be advised that a referral to stage 3 of the procedure will need to be made if there is not a return to work within a reasonable timeframe.

In the circumstances of b/ it may be necessary for the matter to be progressed to a stage 3 meeting of the procedure chaired by a Head of Service or Director (details in section 14).

Prior to any referral to a stage 3 meeting the employee should be advised that their continued employment will be considered including the possibility of their dismissal. It will also be important to ensure that any updated medical information from Occupational Health is available for the stage 3 meeting.

### **Not later than 30 weeks of continuous absence**

A further formal review meeting will be held to consider the updated information from Occupational Health or the status of the employee's absence if they have not returned to work as expected. The meeting will be chaired by a Head of Service or Director. Details are set out in section 14.

### **13. MANAGEMENT OF AN OVERALL RECORD OF UNACCEPTABLE ABSENCE**

- 13.1 There will be occasions where an employee's absence record becomes of concern as a result of the combination of both short and long term sickness. In such circumstances the Line Manager will have the discretion to take a rounded view of the sickness record and escalate as appropriate through the stages of the management of attendance policy.
- 13.2 For combined periods of absence, consideration should be given to the significance of such absence as measured via the weighting calculation (spells of absence times spells of absence times days lost).
- 13.3 As a general guide, attendance reviews (using the sequence set out in section 10) would be triggered where an employee's absence score exceeds 400 in a rolling 12 month period and where the employee has had 3 or more spells of absence in that period.
- 13.4 In considering any employment decision at stage 3 of either the long or short-term procedure consideration will also be given to an employee's overall record of absence (e.g. over a 2 - 5 year period).

### **14. CONSIDERATION OF FUTURE EMPLOYMENT – STAGE 3**

- 14.1 The Council will take all practical, possible and reasonable measures to avoid dismissing employees for sickness absence. However there will be occasions where the intermittent or continuing absence of an employee undermines the viability of the employment contract.
- 14.2 In such circumstances the employee will be required to attend a formal stage 3 meeting with a Director or Head of Service/Operational Manager. The employee should be given 10 calendar days' written notice of the meeting including its purpose and potential outcome.
- 14.3 As part of the stage 3 meeting the Chief Officer will need to consider:-
- the continued reasons for the sickness absence
  - the latest (i.e. most up to date) advice from Occupational Health
  - the effectiveness of any remedial actions and interventions taken
  - the possible need for any further support measures
  - the likelihood of an improvement in a pattern of intermittent absence
  - the likelihood of a return from long term absence in a reasonable period.
  - the employee's overall employment/sickness record
  - the employee's overall yearly historical absence record
- 14.4 As always it will be necessary to take into account the nature and cause of the absence particularly in cases of an Industrial Injury sustained whilst an employee was carrying out their role.

14.5 If as a result of the above there is no likelihood of an improvement in the employee's overall absence record or a return from long term sickness in a reasonable period then the following options should be considered:-

a/ Where the employee's inability to attend work on a regular basis has an impact on service delivery

If an employee's attendance at work has not reached a satisfactory level following consideration under section 10 of this procedure and there is no likelihood of improvement then the contract of the employee may be terminated on the grounds of incapability with appropriate notice.

b/ Where an employee has been on long term absence and there is no prospect of a return to work in a reasonable period

Following consideration under section 11 of this procedure it is considered that the employee is unlikely to return to work in the foreseeable future then consideration will be given to:-

i) Pursuing a case for ill health retirement (if appropriate) with access to pension and appropriate notice

ii) Terminating the employee's contract with appropriate notice

iii) Pursuing arrangements for consensual termination

c/ Where the overall level of absence (long and short term) is unacceptable

Where it becomes evident that an employee's overall sickness record is unacceptable and having a negative impact on the service then the employee's contract may be terminated on the grounds of incapability with appropriate notice. This may be the case as a result of the gradual review of an employee's sickness absence record as set out in section 11 or as a result of considering the overall absence pattern over a 2 to 5 year period.

14.6 If as a result of the above it is felt that there is a likelihood of an improvement in the employee's overall absence record or a return from long term sickness in a reasonable period then the arrangements should be made for a further review period and if necessary a reconvened stage 3 meeting.

## **15. APPEALS**

15.1 For dismissals under this policy, employees have the right of Appeal to the Councils Appeals Panel. The Appeal must be made in writing to the Head of Human Resources within 10 working days of receiving the letter of dismissal

## **16. SUPPORT AND INTERVENTIONS**

16.1 The Council believes in doing all that is practically and reasonably possible to assist employees to return to work following any sickness absence. In accordance with this there are a range of supportive interventions that should be considered in conjunction with advice taken from Occupational Health.



### Adaptations

- 16.2 All reasonable adaptations and adjustments will be considered to help an employee remain in work or return to work. This can be organised with support and advice from the Council's Occupational Health and Safety Unit and following appropriate risk assessments taking place.

### Reasonable Adjustments

- 16.3 The Council is committed to the rehabilitation of those employees who become disabled during the course of their working life and where necessary the reasonable retraining of those employees who may require redeployment. The Council will make all reasonable adjustments that may be necessary including any reasonable modifications to the employee's job role.

### Phased Return to Work

- 16.4 A return to work following an extended period of sick leave can be facilitated by a graduated build up to normal contracted hours. This should be subject to advice from Occupational Health and the employee providing a fit note from their GP confirming they are fit to return to work.

Each case must be considered in the light of individual circumstances but it would be unusual for a phased return to extend beyond 4 weeks. To assist the phased return to work the employee will be required to work a minimum of 50% of their normal working hours. The balance of hours will be made up of a maximum of 10 additional supported leave days (pro-rata for part time staff) and if necessary annual leave.

### Re-assignment on limited duties

- 16.5 If a return to full duties is not anticipated, the Line Manager must consider whether it is possible for the employee to carry out limited duties on a permanent basis with appropriate adjustments to salary. This should only be considered if it can be accommodated within the needs of the service and is supported by advice from the Occupational Health Unit.

### Redeployment

- 16.6 Where an employee has been absent in excess of three months and where there is medical evidence to suggest that they may not be able to return to their substantive position, they will be placed on the redeployment list for a period up to six months and prior consideration will be given to other positions.

### Maintained Sick Leave

- 16.7 This is an option for employees with potentially terminal medical conditions or those recovering from treatment emanating from such conditions. As part of a case management approach it will allow a Line Manager to manage the employee in a sensitive way and to set aside the normal "staged" requirements of the Management of Attendance Policy. Such an arrangement will need to be approved by the relevant Head of Service.

### Occupational Health Facilities

- 16.8 The services of the Council's Occupational Health Unit have been retained and reviewed in order to support managers in the management of sickness, the provision of support to help ensure employees stay in work and the promotion of wider and positive health promotion.

### Employee Counselling and Assistance Programme (CARE FIRST)

- 16.9 The Council has recently implemented a new Employee Assistance Programme through CARE FIRST for the provision of a confidential telephone counselling, support and advice to all employees. The service is free for employees to access on a 24 hour a day basis and for 365 days each year. To find out more about this service (and the range of associated services) employees are invited to ring 0800174319 or go online at [www.carefirst-lifestyle.co.uk](http://www.carefirst-lifestyle.co.uk).

## **17. OTHER ISSUES**

### Disability related absence

- 17.1 It is important to ensure that employees with a disability (i.e. those within the scope of the Equalities Act) are not unfairly discriminated against through the application of this policy. Advice should be sought from both the Human Resources Casework Team and Occupational Health about this and in particular all appropriate interventions as set out in Section 16 considered.

### Stress related absence

- 17.2 Employees who report stress related absence must be referred as soon as possible for an Occupational Health review in accordance with the Council's Management of Stress at Work Policy and a risk assessment carried out.

### Pregnancy related absence

- 17.3 Where an illness is attributable to pregnancy it will be important that all supportive measures are taken and adjustments to the role and application of the policy considered. It will not be counted towards the triggers in the management of attendance policy. Written risk assessment should be undertaken as part of the Health and Safety at Work Regulations 1999 and advice sought from the Human Resources and Health and Safety Teams.

### Industrial Injury of Accident at Work

- 17.4 Where an employee is absent as a result of a reported industrial injury, incident or accident at work (which has been reported to the manager at the time it occurred and where an accident form has been completed) these periods of absence should be recorded and payment made in accordance with the specific provisions of the national collective agreements. Any decision at stage 3 of the procedure should be taken in the context of the particular details of the case.

### Sickness and annual leave

- 17.5 In circumstances where sickness is immediately prior to or following annual leave, a doctor's Fit note will be required to support the absence.

- 17.6 Annual leave may be reimbursed where sickness occurs during a period of booked annual leave. This will be dependent on the production of a doctor's medical certificate to support the absence and compliance with the sickness reporting procedure as set out in section 7.
- 17.7 Employees who have been absent through sickness and have holidays remaining at the end of their leave year (and have been prevented from taking this leave due to sickness) may carry forward a maximum of 20 days statutory leave entitlement including bank holidays (less any leave already taken). Carried over annual leave must be used within 18 months of the end of the leave year.
- 17.8 Employees who do not report for work on a Bank Holiday because of sickness absence will not attract enhanced payments or attract time-off in lieu.

#### Abuse of the Management of Attendance Policy

- 17.9 If an employee abuses the Management of Attendance Policy for any of the following reasons then sick pay may be suspended and, in addition the matter may be referred through the disciplinary procedure. Examples of such abuse are set out below:-
- Absence on account of sickness due or attributable to the employee's own misconduct or conduct prejudicial to recovery
  - Absence on account of sickness due to an injury while working for private gain or for another employer or resulting from participation in professional sport.
  - Failure to comply (without good reason) with the reporting procedures set out in this Policy
  - Failure to attend (without good reason) absence review meetings as required by the Policy
  - Absence levels where the reasons appear to be fraudulent or exaggerated

#### Part day absence

- 17.10 Part day absences (i.e. for less than 50% of an employee's working day or shift) will not be recorded for the purposes of counting absence days/periods in section 10 (1 and 2) but will be considered when looking at the general and overall pattern of an employee's attendance record (i.e. section 10 (3 and 5)).

#### Medical suspension

- 17.11 In circumstances where an employee is not considered fit enough to be at work they should be encouraged to seek medical advice through their own GP or through Occupational Health. Where this advice is not taken it may be necessary to suspend the employee on medical grounds. Advice should be sought from the Human Resources Casework team.

### **18. RELATED POLICIES**

- 18.1 The Management of Attendance Policy is part of a suite of policies to support positive health and good levels of attendance at work. It should be operated in conjunction with other related policies as set out below:-

- Corporate Occupational Health and Safety
- Mental Health and Well-being
- Control of Alcohol at Work
- Drugs and Substance Misuse
- Control of Violence at Work
- Maternity Scheme
- Equalities Scheme

**19. REVIEWING THE POLICY**

19.1 The Management of Attendance Policy will be reviewed on a two yearly basis and on the basis of experience and best practice.

Agreed with trade unions on 4-5-16 subject to review over the next 18 months

Jess Turner	UNISON	Glen Pappas	UNISON
Kelly Andrews	GMB	Chris Jordan	GMB
Bryan Godsell	UNITE	Steve Robertson	UNITE
Reuben Bergman	HR	Adrian Unsworth	HR
Caroline Mason	HR		

**Cabinet**  
23/05/16

**Implementation Date**  
01/10/16

**Review Period**  
Over next 18  
Months

**Human Resources**