
Sickness Absence Policy

SHARED SERVICES



Council of the
ISLES OF SCILLY

November 2015

REVISIONS TO SOURCE DOCUMENT

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Version History			
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12/05/15	2.0	LWJ	Policy review
30/06/15	2.1	LWJ	Revisions following staff consultation
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16/11/15	2.3	RH	Clarity on sickness payments
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Equalities Impact Assessment Record					
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If you require this document in an alternative language, in larger text, Braille, easy read or in an audio format, please contact the Council at diversity@scilly.gov.uk or telephone 01720 424000

Law relating to this document:

Employment Rights Act 1996

Equality Act 2010

Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (SI 2010/137)

POLICY STATEMENT

- 1.1 The Council of the Isles of Scilly is committed to the welfare of its employees and the implementation of policies that provide all employees with the appropriate support in relation to their health. It is, of course, legitimate for employees to be off work if they are unwell and the Council is committed to promoting the health and wellbeing of all its employees.
- 1.2 The purpose of this policy and procedure is to ensure the fair and consistent treatment of employees who have frequent or persistent short term absence or are unable to attend due to longer term ill-health. In line with the National Joint Council for Local Government Services (NJC) National Agreement for Pay and Conditions (Green Book), this policy provides a framework for managers to support and encourage reliable attendance at work together with promoting effective management of sickness absence and ill-health. Appropriate training will be provided for managers to ensure they are equipped with the skills and knowledge to implement the policy in a fair, sensitive and effective manner.
- 1.3 Sickness absence will be managed through the appropriate procedure. This document covers frequent or persistent short term absence and long term ill health.
- 1.4 The Council will pay due regard to the Equality Act 2010. Where employees become disabled and wish to remain in employment, every effort will be made to make reasonable adjustments or find suitable alternative work wherever possible.

PRINCIPLES

- 2.1 The Council values the contribution of all employees in the delivery and maintenance of quality services. Whilst recognising that employees may be prevented from attending work through ill health, the Council has a duty to maintain service delivery and minimise disruption. The Council is therefore committed to managing sickness absence in an appropriate way and as defined in this policy.
- 2.2 The Council will achieve this through:-
 - Promoting the health, safety and wellbeing of all employees,
 - Monitoring levels of sickness absence for employees, service areas and the Council as a whole,
 - Implementing procedures to support and manage staff absences and to take all measures to reduce sickness absence levels,
 - The provision of a referral service for staff with sickness absence problems through an appointed occupational health provider, including the provision of a confidential counselling service for employees.
- 2.3 The following principles apply to the Council's procedures for addressing sickness absence:
 - Sickness absence will be addressed in a way that is non-discriminatory and in accordance with the Equal Opportunities Policy,

- Employees will be treated with consistency and the sickness absence procedures will be fairly applied across the Council,
- Sickness absence cases will be conducted with respect for confidentiality and in accordance with the requirements of the Data Protection and Access to Medical Reports Acts.

ROLE AND RESPONSIBILITIES

MANAGERS RESPONSIBILITIES

- 3.1 Managers are directly responsible for controlling absence. Where particular aspects are delegated to other staff, such duties must be clearly assigned, including the identification of an appropriate contact person. It is important that managers deal with all absence in a supportive, consistent and proactive way. All managers should:
- Establish an attendance culture where sickness absence is recognised as an important factor affecting team performance and service delivery,
 - Ensure that employees fully understand and follow the sickness reporting procedures,
 - Complete and return sickness absence statistics as required including informing Human Resources of all sickness absences on the timesheets and individual sickness return forms as necessary,
 - Monitor and review absence records on a regular basis, taking appropriate action to address unsatisfactory levels of absence,
 - Ensure that contact is maintained with the absent employee,
 - Conduct a return to work interview with each employee after each absence,
 - Consider reasonable adjustments for disabled employees and for employees where illness or injury has resulted in short or long term impairment,
 - Ensure that sufficient measures are considered and appropriate action taken to address the causes of absence,
 - Seek guidance and advice from Human Resources when formal action is being considered or where the manager is unclear on what to do at any stage of the procedures.

EMPLOYEES RESPONSIBILITIES

- 3.2 Employees are responsible for ensuring that they meet their contractual obligation to attend work unless prevented from doing so for medical reasons. Employees must take responsibility for:-
- Complying with all sickness reporting procedures,
 - Ensuring that contact with their line manager is maintained during periods of absence, and that progress is reported regardless of certification requirements including expected return to work date,
 - Submitting a Statement of Fitness note from their GP if they are either not fit for work or may be fit for work with reasonable adjustments being put in place,
 - Ensuring that, where necessary, medical advice and treatment is sought as quickly as possible in order to facilitate a return to work,

- Co-operating fully with positive attendance management procedures, such as referral to the Occupational Health Service and other specialist advisor(s) that provide support to the Council and its employees,
- Ensuring that absences are attributed to illness only when a medical reason exists. The Council has a range of policies that cover leave of absence for other reasons (caring, parental and family responsibilities for example) and managers have discretion to deal with exceptional circumstances that are not covered specifically in these policies,
- Informing their line manager if they are likely to be away from home for any length of time during their sickness absence,
- Informing their Line Manager and Human Resources where absence is a result of an accident unconnected with work, and involving a third party where damages may be recoverable from the third party,
- Employees should not undertake other employment whilst absent (whether paid or unpaid) without the line managers prior written agreement - consideration will be given as to whether the additional employment will be detrimental to the employee's health and recovery,
- Employees are responsible for complying with the requirements of this document and co-operating with all reasonable management instructions,
- Employees are responsible for keeping their line manager informed of any medical condition, medication (which could affect their ability to work in line with the Alcohol and drugs policy) and any ongoing requirement to attend outpatient appointments, clinics etc.

PAYROLL RESPONSIBILITIES

- 3.3 Payroll provides advice on Statutory Sick Pay (SSP)/Occupational Sick Pay (OSP) and has responsibility for the maintenance of absence records.

HUMAN RESOURCES RESPONSIBILITIES

- 3.4 Human Resources offer managers advice and guidance on how to manage employee absence due to sickness. Human Resources should be contacted as soon as a potential issue is identified and prior to any action being taken at the formal stages of the relevant procedure.
- 3.5 Human Resources can also advise on a range of practical issues including referrals to Occupational Health and other support available.

REPORTING OF ABSENCE

- 4.1 When employees are unable to attend work because they are ill or injured, they are required to follow the notification requirements set out below. Failure to do so without reasonable cause will result in the loss of pay. Individuals need to be notified, in writing, before any deduction takes place. Where an employee is absent from work and

has not made contact with their manager it is reasonable for the manager to make contact with the employee to ascertain their whereabouts and reason for absence.

FIRST DAY OF SICKNESS ABSENCE

- 4.2 If any employee is absent they must notify their line manager, or nominated person, as early as possible, and not later than within 1 hour of their normal start time. The contact must be by phone and not by text message or email.
- 4.3 The following information should be provided:
- The date they became unfit for work
 - The nature of the sickness absence
 - The likely duration of the sickness absence (if the illness is likely to last more than 7 calendar days then the employee must telephone on the 7th day and provide a Statement of Fitness note).
 - When they are likely to return to work
 - Whether contact has been made with their GP.

SICKNESS ABSENCE UP TO 7 DAYS (SELF-CERTIFIED SICKNESS)

- 4.4 If the absence continues into a second day (including weekends, rest days and public holidays) the employee (or in exceptional circumstances, someone on their behalf) should notify the line manager by phone giving further information on the nature of the illness and the likely length of the absence

SICKNESS ABSENCE WHICH LASTS FOR 8 OR MORE CONSECUTIVE DAYS

- 4.5 If the sickness absence continues into the eighth day (including weekends, rest days and public holidays) the employee should obtain a Statement of Fitness note (previously known as a sick note or medical certificate) from their GP. The employee should contact the manager by phone giving further information on the nature of the illness, the likely length of the absence and they should send the Statement of Fitness note to the line manager.
- 4.6 Where the sickness absence is for a prolonged period, the employee must continue sending Statement of Fitness notes to cover their absence and keep in direct contact with their line manager wherever possible.

SICKNESS ALLOWANCE

- 5.1 If employees are prevented from working due to sickness or injury, they must notify their line manager as soon as possible on the first day of any sick absence (see paragraphs 4 above). Providing this is done and the Sickness Absence Policy is complied with the employee will be covered by the Sickness Pay Scheme set out in the National Agreement. The allowance is related to length of service as follows:

Length of Service	Sick Pay	
	Full Pay	Half Pay
During 1 st year	1 month	2 months (after completing 4 months' service)
During 2 nd year	2 month	2 months
During 3 rd year	4 month	4 months
During 4 th & 5 th years	5 month	5 months
After 5 years	6 month	6 months

- 5.2 Service is defined as continuous employment in Local Government or associated bodies, as set out in the Statement of Particulars.
- 5.3 The Head of Paid Service, in consultation with the Section 151 Officer, has the discretion to extend the period of sick pay in exceptional circumstances.
- 5.4 The period during which sick pay shall be paid, and the rate of sick pay, in respect of any period of absence shall be calculated by deducting from the employee's entitlement on the first day the aggregate of periods of paid absence during the twelve months immediately preceding the first day of absence.
- 5.5 For the avoidance of doubt, every period of absence an employee takes, the employee's entitlement to sick pay at 5.1 is calculated from the first day of that absence, for long as that period of absence persists. Therefore, should the anniversary of employment occur during that absence, the entitlement shall remain as for the first day of that absence until the end of that absence. If the employee returns to work, on any further sickness absence, the starting point of calculation would be the first date of that new sickness absence; whatever sick pay has been received in the preceding 12 months that will be the new entitlement for that period of absence.
- 5.6 In the case of full pay periods, sick pay will be an amount which when added to Statutory Sick Pay and Incapacity Benefit receivable will secure the equivalent of normal pay.
- 5.7 In the case of half pay periods, sick pay will be an amount equal to half normal earnings plus an amount equivalent to Statutory Sick Pay and Incapacity Benefit receivable, so long as the total sum does not exceed normal pay.
- 5.8 Normal pay includes all earnings that would be paid during a period of normal working, but excluding any payments not made on a regular basis.

- 5.9 Where an employee is receiving sick pay under the scheme, sick pay shall continue if a public or extra statutory holiday falls during such sickness absence. No substitute public or extra statutory holiday shall be given.
- 5.10 The social security benefits to be taken into account for the calculation of sick pay are those to which an employee is entitled on the basis that the employee has satisfied so far as is possible:
- (i) the conditions for the reporting of sickness as required by the authority;
 - (ii) the claiming of benefits
 - (iii) the obligation to declare any entitlement to benefits and any subsequent changes in circumstances affecting such entitlement.
- 5.11 An employee who is prevented from attending work because of contact with infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under this scheme.
- 5.12 Sick pay may be suspended if an employee abuses the sickness scheme or is absent on account of sickness due or attributable to:
- (i) deliberate conduct prejudicial to recovery,
 - (ii) the employee's own misconduct or neglect,
 - (iii) active participation in professional sport,
 - (iv) injury while working in the employee's own time on their own account for private gain or for another employer.
- 5.13 Where sick pay is suspended, Human Resources shall advise the employee of the grounds for suspension and the employee shall have a right of appeal to the relevant Senior Manager. If the Senior Manager decides that the grounds were justified then the employee will forfeit the right to any further payment in respect of that period of absence.
- 5.14 Repeated abuse of the sickness scheme should be dealt with under the disciplinary procedure (See section 8 below).

DOCTOR/DENTIST AND HOSPITAL APPOINTMENT

- 6.1 Appointments with doctors, dentists and hospitals should be arranged, wherever possible, outside of working hours. If visits cannot be so arranged they may be made during working hours with the prior approval of their line manager. All such visits made during the normal working hours will be credited in full.
- 6.2 Employees should always keep their line manager fully informed of their medical condition and any requirements to attend appointments. Evidence may be requested.
- 6.3 Employees who are regarded as 'disabled' under the Equality Act 2010 will have special provisions concerning time off, including medical appointments related to their disability.

RETURN TO WORK INTERVIEWS (RTWI'S)

- 7.1 A Return to Work Interview should always be conducted by the line manager and should take place within 48 hours of the employee returning to work from any period of sickness absence, including short-term sickness of one day only. In most cases this will be a brief and informal meeting, the purpose of which is to ascertain whether the employee is indeed fit to return to work and where necessary discuss their sickness record. Line Managers will find a template Return to Work Interview form can be found at [Shared Resources\Templates & Forms\HR\Return to Work Interview.docx](#).

DEALING WITH SHORT TERM AND LONG TERM ABSENCE

- 8.1 The Council has adopted separate procedures for dealing with short term and long term absence - these procedures are set out at the end of this document.
- 8.2 The point at which line managers are required to review the employee's absence and determine whether further action is appropriate is triggered when an employee has accumulated:

3 absences in 3 months
or
10 or more days sickness absence within a 3 month period (this will be applied on a pro-rata basis for part time employees)
or
Any patterns such as frequent absenteeism on a Monday and / or Friday
Or
Has been continuously absent for a period of at least 4 consecutive weeks

- 8.3 Frequent or persistent short term absence is defined as absence through illness of less than 20 working days. Absence can be of a short term duration (e.g. a few days or less) and may occur at regular intervals. These absences are normally self-certified (for periods of up to 7 calendar days).
- 8.4 Wherever possible it is hoped that absence can be improved through the use of informal monitoring and review procedures. However, if despite the appropriate support being given, there is no improvement then the formal procedure will apply. There are four stages within the formal procedure and the Council uses trigger points to help managers manage absence consistently.
- 8.5 Long Term Absence is defined as an absence due to illness for an unbroken period of four weeks or more where there is no anticipation of an imminent return. This may be a serious, continuing, worsening illness/disease or serious injury of a long-term nature. In

all cases of long term absence, a referral will automatically be made to Occupational Health.

- 8.6 The Council has adopted a four stage approach for managing long term absence due to ill health with the intention of facilitating the employee's return to work at the earliest opportunity.
- 8.7 However, the procedure also recognises that the employee may ultimately be unable to return to work. In such cases, the Council will always seek appropriate expert medical advice and review all reasonable options for alternative employment or other means of potentially facilitating a return to work before considering any termination of employment on grounds of capability.

PROTOCOLS

- 9.1 A minimum of 5 working days notice should be given to the employee in the case of any meeting held under either procedure. The employee has the right to be accompanied by a trade union representative or supported by a workplace colleague (who is not a family member) at any stages of the formal procedure. At all stages of the formal procedure a proper investigation should be conducted into the circumstances of the sickness absence and the employee consulted. Human Resources will accompany the line manager at all formal stages.
- 9.2 The content and outcomes of all review meetings should be confirmed in writing and any discussions that take place with the employee regarding their absence in the interim period between reviews should be documented.
- 9.3 A referral to Occupational Health can be made at any time during the procedure. In the case of any long term absence this should happen in the early stages in order to provide the appropriate support. An early referral should also be made where there are frequent short term absences or a pattern of absence. The purpose will be to obtain expert medical advice and establish whether there is an underlying medical problem.
- 9.4 At all stages in this procedure, where Occupational Health advises that there is an underlying medical condition which may be impacting on the employee's work, then the matter will be discussed with the employee to attempt to put in place appropriate support. The intention would be to facilitate an acceptable level of attendance and may include:
- Changes to the job
 - Revised ways of working
 - Changes to hours of work
- 9.5 Due regard must be taken of any reasonable adjustment to the working environment that can be made under the Equality Act 2010.

PREGNANCY RELATED ABSENCE

- 10.1 All female employees, regardless of service length or hours worked have a right not to be dismissed on the grounds of pregnancy, a pregnancy related reason or a reason relating to the birth or maternity leave.
- 10.2 If an employee is absent because of a pregnancy related illness in the four weeks before the expected week of childbirth (the date the baby is due), an employer can trigger the start of the employee's maternity leave.
- 10.3 It is also important that pregnant employees undergo a specific risk assessment. Human Resources can provide advice on the risk assessment process for expectant mothers.

ELECTIVE SURGERY

- 11.1 In respect of elective surgery, employees will only qualify for sick pay if they provide evidence from their GP that they meet the criteria for having such treatment on the NHS (though treatment may be provided privately) i.e. that it is necessary for physical or psychological reasons. The employee will be required to provide a Statement of Fitness note for the whole period of absence. In all other cases of elective surgery, the employee will be required to take annual leave or TOIL or unpaid leave if this is agreed and this should not be recorded as sickness absence.

ABSENCE FROM WORK CAUSED BY A THIRD PARTY (E.G. ROAD TRAFFIC ACCIDENT)

- 12.1 Where absence is caused by or attributable to a third party, sick pay entitlement may be replaced by (and at the discretion of the Council) a payment of equal value pending recovery of the sum from the third party.

ABSENCE FROM WORK CAUSED BY ALCOHOL AND DRUG MISUSE

- 13.1 Where an employee has an alcohol, drug or substance dependency substantiated by medical evidence, it shall be the duty of the employee in the first instance to inform their manager of this fact and this will be regarded for employment purposes as an illness.
- 13.2 Where an employee wilfully places themselves under the influence of alcohol, drugs or other substances and, as a consequence reports unfit for duty, or becomes unfit for the duties that they are required, or likely, to perform they will be subject to disciplinary action in accordance with the Disciplinary Procedure. Further information can be found in the Alcohol and Drugs Policy.

BREACHES OF THE SICKNESS ABSENCE POLICY AND PROCEDURE

- 14.1 Any breach of the Sickness Absence Policy and Procedure will be dealt with under the Disciplinary Procedure. Examples of conduct that may be subject to disciplinary action are:

- taking part in activities that are prejudicial to recovery;
- failing to comply with the requirements of the Sickness Absence Procedure;
- failing to cooperate with reasonable management instructions.

14.2 Examples of offences that may be regarded as gross misconduct and could result in summary dismissal or suspension followed by dismissal are:

- Making a false claim of incapacity for work due to ill health;
- Falsification of any Statement of Fitness note issued by a medical practitioner;
- Carrying out other employment whilst on sick leave without permission.

TERMINATION OR SUSPENSION OF SICK PAY

15.1 In the event that an employee has failed to comply with any requirements under this scheme, or that they are guilty of conduct which might prejudice recovery, the payment of sick pay will be suspended and any payments already made will be recovered. In such circumstances the Council will advise the employee of the reasons for the suspension of pay and will invite them to make a response. An employee can appeal against this decision by writing to their line manager giving details of the reason for their appeal.

15.2 If it is decided that the employee has failed, without good reason, to fulfill the requirements of the scheme or that they are guilty of conduct prejudicial to recovery then no further payments will be made in respect of that period of absence and disciplinary action may be taken.

APPEALS

16.1 An employee may appeal against any of the warnings issued during the formal stages of this procedure. An appeal will be heard by the relevant Senior Officer or Senior Manager, accompanied by Human Resources. Appeals against dismissals will be heard by a senior Manager or the Chief Executive. The employee has the right to be accompanied at an appeal by a trade union representative or workplace colleague (not a family member). Any appeal must be made within ten working days of a warning being given and should be in writing and addressed to the Senior Officer: Shared Services.

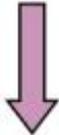
SUPPORT FOR EMPLOYEES

17.1 It is recognised that there are many situations in life which cause anxiety and stress which can impact an individual's health and wellbeing. The Employee Assistance Programme (EAP) is a positive way of approaching issues through one to one telephone discussion with a professional counsellor. The service offers confidential and professional support to anyone seeking it and is free to all members of staff and their immediate families. The EAP is a 24 hours/7 days a week call centre which is operated by CareFirst.

APPENDIX 1 – PROCEDURE FOR DEALING WITH SHORT TERM ABSENCE

INTRODUCTION

- 1.1 This procedure provides guidance on managing short term, frequent and persistent levels of sickness absence where the manager has identified that a trigger point has been reached. Human Resources can be contacted at any stage to provide general advice and support or expert guidance.
- 1.2 It is assumed that a Return to Work Interview will have already taken place prior to this procedure being initiated.
- 1.3 The key stages and trigger points:

Informal Stage Meeting 	Triggered by 3 absences in 3 months or 10 or more days in a 3 month period or any pattern such as frequent absenteeism on Mondays and / or Fridays	No formal warnings are given at this stage	Continue with regular Meetings and ongoing Monitoring
Next stage – if there is no improvement in attendance move to Formal Stages of procedure			

STAGE 1 - INFORMAL PROCEDURE

- 1.4 The purpose of the **Informal Stage Meeting** is to provide an opportunity to highlight concerns, establish if there are any underlying problems and identify what support could be offered to assist the employee. The line manager should also use this meeting as an opportunity to:
- review the sickness absence and reasons for absence – seek more information from employee;
 - discuss sickness absence information with employee, indicating any patterns of absence and how they have met the triggers;
 - ensure that the employee is aware that their absence will be monitored and set in place review dates (at least monthly);
 - ensure the employee is aware of the importance of good attendance and the requirement to achieve a sustained improvement;
 - ensure the employee is aware that if improvement is not forthcoming, then the formal procedure will commence.
- 1.5 It may be necessary for more than one meeting to be held at this stage in order to review any action taken and to review occupational health advice (where this has been sought).

- 1.6 Following the meeting the manager will confirm in writing the required improvements in attendance, any action to be taken to assist in overcoming the problem and the consequences of failing to meet these expectations.

Where there is no improvement the formal procedure will commence:		
Informal Procedure Stage 1	↓ absence triggers	Establish if there are any underlying problems and identify what support could be offered to assist the employee. MORE THAN ONE REVIEW CAN TAKE PLACE AT THIS STAGE
Formal Procedure Stage 2	↓ further absence triggers	Formal Written Warning
Formal Procedure Stage 3	↓ further absence triggers*	Final Written Warning
Formal Procedure Stage 4	↓ further absence triggers**	Panel held to consider dismissal on the grounds of incapability due to ill health
<p>*a referral to Occupational Health should be made, if this has not already been done **a full review of Occupational Health advice and guidance should be carried out with the employee at these stages and further advice sought where necessary.</p>		
<p>Where it has been confirmed that there is no underlying medical condition or where, despite adjustments and support an acceptable level of attendance has not been achieved then the appropriate level of warning may be issued at any of the above stages.</p> <p>The warning must include:</p> <ul style="list-style-type: none"> • the reason for the warning i.e. their unacceptable attendance levels; • the improvement in attendance expected; and details of support put in place to assist; • that any further sickness absence which meets the trigger points within the relevant timescales will lead to the matter being dealt with under the next stage of the formal procedure; • at the relevant stages (1 and 2) that failure to improve their attendance to an acceptable level could result in the employee's potential dismissal; • the duration of the warning and right of appeal. 		

STAGES 2 AND 3 - FORMAL PROCEDURE

- 1.7 The following principles apply to each stage in the procedure:
- the manager should arrange a meeting with the employee clearly outlining which stage of the procedure applies;
 - a review of any previous discussions should take place together with an assessment of any support arrangements put in place;
 - a review of the reasons for the continued absence;
 - the manager must make clear the employee's absence is causing concern;

- the manager must be specific in the improvements required together with timescales for improvement and any potential next step;
- where further advice is sought from Occupational Health, further consideration should be given to whether additional support/action is needed.

STAGE 4 - FORMAL PROCEDURE

- 1.8 If an improvement is still not forthcoming the relevant Senior Manager or Chief Executive, together with a member of Human Resources Manager will arrange a meeting with the employee and, after considering all the facts, make a decision whether to dismiss on the grounds of incapability due to recurrent ill health.
- 1.9 The Senior Manager and Human Resources representative will:
- Recap on previous meetings and basis of concerns;
 - Review the employee's attendance record and detail actions previously agreed;
 - Check that the procedure has been followed appropriately;
 - Review all occupational health advice and consider most up to date sickness information;
 - Consider any additional information the employee wishes to provide;
 - Consider if there is any further support or adjustments that would enable an improvement in attendance;
 - Consider if there is any information they need before making a decision;
 - Adjourn to consider:
 - whether the employee should be dismissed on the grounds of incapability due to ill health;
 - if the decision is not to dismiss the employee and a further review period is granted, then it should be made clear the timescales and level of improvement required. It should also be made explicit that the employment will be terminated if their attendance fails to improve adequately;
 - if decision is dismissal then confirmation of notice, the date of dismissal and the effect on future references should be given;
 - The panel will need to reconvene to inform employee of the decision with an explanation of how the decision was reached and explain their right of appeal.

APPEALS

- 1.10 An employee has a right of appeal against a sanction issued under this procedure. A request for an appeal should be sent in writing to the Senior Officer: Shared Services, and set out the grounds on which the employee believes that the decision was flawed or unfair. The request should be sent within seven days of the employee receiving written confirmation of the sanction imposed on them by the Council.
- 1.11 An appeal meeting will be convened to consider the matter. It will be chaired by a member of Senior Leadership Team (SLT) together with a representative from Human Resources neither of whom will have had any involvement in the case. The employee will be entitled to be represented by a trade union representative or colleague (who is not a family member). If the case is against the Chief Executive or the Monitoring Officer the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the '2015 Regulations') will apply.

- 1.12 At the meeting, the decision to impose the sanction will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.
- 1.13 The result of the meeting will be either to confirm the sanction, or substitute any outcome that was available to the panel conducting the hearing at which the sanction was imposed on the employee.
- 1.14 The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

APPENDIX 2 – PROCEDURE FOR DEALING WITH LONG TERM SICKNESS ABSENCE

- 1.1 The Council has adopted a four-step approach for managing long term absences due to ill health which is outlined below:

<p>Stage 1 Informal Procedure</p>	<p>Informal Review – Line Manager (with advice from Human Resources) Employee has been absent for 4 weeks – line manager should make contact with employee and establish how this is to be maintained Continue to monitor situation and agree a review date *</p>	<p>Initial assessment of medical condition and any likelihood of a return to work - decide whether Occupational Health Referral is required. * MORE THAN ONE REVIEW CAN TAKE PLACE AT THIS STAGE</p>
<p>Stage 2 Formal Procedure</p>	<p>Formal Review – Line Manager and Human Resources Provide further support to employee Arrangements must be made for a referral to Occupational Health if not already made – consideration should be given to any reasonable adjustments. Occupational Health should be asked to confirm the likelihood of the employee’s return adjustments that may facilitate a return Where Occupational Health confirm there is no likelihood of return and/or where redeployment is not an option move to Formal Stage 3</p>	<p>Contact Human Resources in regard to next stages. *MORE THAN ONE REVIEW CAN TAKE PLACE AT THIS STAGE</p>
<p>Stage 3 Formal Procedure</p>	<p>Formal Review – Line Manager and Human Resources The employee should be advised that unless they are able to resume their duties within a specified period the matter will be referred to a Final Absence Review Hearing. They should also be advised that their employment may be terminated on the grounds of “incapability” due to continuing ill health.</p>	<p>Consideration may need to be given to ill health retirement where applicable - see Tiered Ill Health Provision (LGPS)</p>
<p>Stage 4 Formal Procedure</p>	<p>Final Review – Senior Manager and Human Resources Consideration must be given to redeployment and reasonable adjustments under the Equality Act 2010.</p>	<p>Meeting held to consider dismissal on the grounds of incapability due to ill health</p>

It is difficult to provide exact timescales when dealing with long term ill health issues. However dismissal on the ground of incapability due to ill health normally applies to employees who have been on continuous sick leave for one year. Dismissal may take place earlier in the process if Occupational Health recommends that the employee's health is such that they can no longer carry out their current duties and should not return to their existing post, or that they will not be able to return to work or sustain regular attendance within a period of time that management considers to be reasonable.

- 1.2 Long term absence is regarded as an absence due to illness or injury of four weeks or more or, where there is no foreseeable return to work. Sensitive handling, careful recording and monitoring by managers is essential to enable early proactive interventions/occupational health support. Managers must inform Human Resources of any long term absences as soon as they become aware of it.
- 1.3 Human Resources can be contacted at any stage to provide general advice and support or expert guidance and Human Resources will send out all formal correspondence.

STAGE 1 REVIEW – INFORMAL PROCEDURE (EMPLOYEE HAS BEEN ABSENT FOR 4 WEEKS)

- 1.4 The manager should contact the employee in order to:
 - indicate concern for the employee and their particular illness and provide support to the employee;
 - establish how regular contact will be maintained - it is essential that this is handled sensitively and the employee's wishes taken into consideration (a template letter is available on the Shared drive);
 - gain an initial assessment of the medical condition and likelihood of return to work;
 - decide whether a referral to Occupational Health is necessary;
 - establish regular monitoring of the employee's attendance and agree review date.
- 1.5 More than one review can take place under this first stage where the manager is satisfied with the employee's progress. However, the matter should be progressed to a Stage 2 Review where:
 - there is no clear indication of a likely return to work within a reasonable timescale, or
 - the employee's absence is causing significant service difficulties.

STAGE 2 REVIEW - FORMAL STAGE

- 1.6 The purpose of a Stage 2 Review is to:
 - Provide further support to the employee;
 - If a referral to Occupational Health has not taken place at Stage 1 Review, then a referral should be arranged and a review meeting held once medical advice is received;
 - Obtain up-to-date medical information and an indication of likely return;
 - Further assess the situation and review the absence monitoring information;
 - Decide what further action to take.

1.7 Once all the relevant information has been reviewed, and in consultation with Human Resources, a decision can be made regarding the action to be taken which may include one, or where appropriate, a combination of the following:

a) A rehabilitation programme may be established including:

- **Further period of recovery:** Allow further time for recovery particularly where Occupational Health confirms that the employee is fit to return to normal duties after a period of recuperation or remedial treatment.
- **Obtain further medical advice:** Obtain further medical advice or other types of support e.g. counselling. The employee may also be encouraged to seek further medical/specialist advice/assistance.
- **Phased return to work:** Where Occupational Health recommends a phased return to work this should be considered. Generally this would be for a period of up to 4 weeks, but longer periods can be considered in certain circumstances. Where longer periods are agreed then temporary reduction in pay or using annual leave may be appropriate.
- **Reasonable adjustment:** If advice from Occupational Health recommends, consideration should be given to reasonable adjustments to working arrangements. These may be permanent or temporary. This may also require support from Access to Work.
- **Medical redeployment:** Where Occupational Health recommends redeployment, then the employee's view on redeployment will be taken into account and all efforts will be made to find a suitable alternative vacant post in the Council.

b) Human Resources will write to the employee to confirm outcome of the meeting and review date.

c) More than one Stage 2 Review meeting can take place where the manager is satisfied with the employee's progress. However, the matter should be progressed to a Stage 3 Review where:

- Occupational Health confirm that there is little prospect of a return to work and redeployment is not an available option;
- There are unacceptable service difficulties.

STAGE 3 REVIEW - ADVISE THAT EMPLOYMENT MAY BE AT RISK

1.8 The employee should be advised that unless they are able to resume their duties within a month, the matter will be referred to a Final Absence Review and their employment may be terminated on the grounds of incapability due to continuing ill-health. This applies to employees who have been on continuous sick leave for one year. This may be earlier than a year if Occupational Health recommends that the employee's health is such that they can no longer carry out their current duties and should not return to their existing post, or that they will not be able to return to work or sustain regular attendance within a period of time that management considers to be reasonable. The

ongoing business needs of the service may also be a legitimate reason for earlier termination of employment - provided any justification for doing so has been agreed with Human Resources and Legal Services.

SECOND MEDICAL OPINION

- 1.9 If an employee disagrees with the opinion expressed by Occupational Health they will be given the option, at their own expense, to obtain an additional expert opinion. Upon receipt of a second opinion, the case will be referred again to Occupational Health who will be asked to review the original advice in light of any new information that has been produced. Where there remains a difference of opinion, the Council will observe the advice given by Occupational Health.

PREMATURE RETIREMENT ON THE GROUNDS OF PERMANENT ILL HEALTH

- 1.10 There may be some instances, where an employee's poor health prevents them from being able to continue or return to the job they were employed to do, in which case retirement pension benefits may be released if the individual meets the necessary eligibility criteria.
- 1.11 Where appropriate, a recommendation for premature retirement on the grounds of permanent ill health will be considered by the Council's Occupational Health provider and consideration given to whether the employee is permanently incapable of discharging the duties of the relevant local government employment because of ill health.
- 1.12 Where an employee is deemed to meet the relevant Local Government Pensions Scheme (LGPS) criteria, Occupational Health will determine whether there is any likelihood of the employee being able to obtain other gainful employment within a reasonable time of leaving, and therefore which 'tier' the employee falls within (see explanation below). A Certificate of Permanent Incapacity will be issued and signed by an independent registered Occupational Health Physician. The decision to release pension benefits is that of the Council, however, pension benefits will only be released upon receipt of this Certificate.
- 1.13 The Council will follow the normal dismissal procedure to terminate employment on the grounds of incapability due to ill health – see stage 4.

TIERED ILL HEALTH PENSION PROVISION (LGPS)

- 1.14 In all cases there is a qualifying period of 3 months.
- 1.15 Tier 1 – applies where an employee is permanently incapable of discharging the duties of their current post and where the employee has no reasonable prospect of being able to

obtain gainful employment before the age of 65. The individual's pension will be enhanced with service from the date of termination of contract to normal retirement age

- 1.16 Tier 2 – provides for payment of second tier ill health pension if the employee deemed permanently incapable of discharging the duties of their current post and where there is a reduced likelihood of the employee being able to obtain gainful employment within a reasonable period of time but the employee might gainful employment before their normal retirement date. In such case the pension will be based on their accrued rights plus an increase of 25% of service that would be accrued up to normal retirement age.
- 1.17 Tier 3 - Employee is deemed permanently incapable of discharging the duties of their current post but the employee is likely to be capable of obtaining gainful employment within 3 years, the employee will receive a pensions based on the amount of service accrued at the point of termination of contract but with no enhancement for a fixed period of 3 years. Anyone who retires under Tier 3 Ill Health Retirement is subject to an 18 month review by Occupational Health.

STAGE 4 FINAL REVIEW (DISMISSAL FOR INCAPABILITY DUE TO ILL HEALTH)

- 1.18 A meeting should be arranged in order that full consideration can be given to the circumstances of the case and an appropriate course of action identified. A Senior Manager or the Chief Executive and a Human Resources representative should be present.
- 1.19 Prior to the meeting a letter inviting the employee to attend a Stage 4 - Final Absence Review Meeting should be sent. The letter must state the reason for the meeting i.e. circumstances that have led to it, and that these circumstances may lead to a decision to dismiss on the grounds of incapability due to ill health.
- 1.20 The employee should be given reasonable time to consider their response and be made aware of the obligation to attend the meeting. If the employee fails to attend through circumstances beyond their control, and unforeseeable at the time the meeting was arranged, then providing the employee notifies the manager of this upon receipt of the letter, another meeting will be arranged. However, if they fail to attend the re-arranged meeting, without good reason, then a decision may be made in their absence.
- 1.21 At the meeting the Senior Manager or Chief Executive should ensure the following points are covered:
- The employee is clear that they have been regularly consulted at each stage and has been informed of the likely outcome including the possibility of dismissal on the grounds of incapability due to ill health.
 - A medical opinion has been obtained from Occupational Health and the employee has been given the opportunity to comment on this.

- The employee has been given the opportunity to discuss the situation and has been made aware of the right of representation.
 - Consideration has been given to redeployment and reasonable adjustments under the Equality Act 2010.
 - Consideration has been given to ill health retirement.
- 1.22 Following the meeting the employee must be informed of the decision in writing and their right of appeal against the decision if they are not satisfied.
- 1.23 Full statutory/contractual notice must be given. If medical advice confirms that the employee should not work during the notice period, it may be appropriate for payment in lieu of notice to be made.
- 1.24 During the notice period the employee should receive full “normal” pay and provide a valid Statement of Fitness note where appropriate. Where it is not possible for outstanding leave entitlement to be taken, a payment will be made.

APPEALS

- 1.25 An employee has a right of appeal against a sanction issued under this procedure. A request for an appeal should be sent in writing to the Senior Officer: Shared Services, and set out the grounds on which the employee believes that the decision was flawed or unfair. The request should be sent within seven days of the employee receiving written confirmation of the sanction imposed on them by the Council.
- 1.26 An appeal meeting will be convened to consider the matter. It will be chaired by a member of Senior Leadership Team (SLT) together with a representative from Human Resources neither of whom will have had any involvement in the case. The employee will be entitled to be represented by a trade union representative or colleague (who is not a family member). If the case is against the Chief Executive and the Monitoring Officer the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the ‘2015 Regulations’) will apply.
- 1.27 At the meeting, the decision to impose the sanction will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.
- 1.28 The result of the meeting will be either to confirm the sanction, or substitute any outcome that was available to the panel conducting the hearing at which the sanction was imposed on the employee.
- 1.29 The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.