

**MANCHESTER CITY COUNCIL
REPORT FOR RESOLUTION**

COMMITTEE: PERSONNEL
DATE: 27 MAY 2009
SUBJECT: PROPOSED REVISED MANAGEMENT OF ATTENDANCE
POLICY AND PROCEDURE
REPORT OF: HEAD OF CORPORATE PERSONNEL

PURPOSE OF REPORT

To seek approval for the introduction of a revised Management of Attendance Policy.

RECOMMENDATIONS:

The Committee are recommended to:-

1. Approve the introduction of the revised Management of Attendance Policy and Procedure, attached as Appendix 2 of this report;
2. Note and endorse the arrangements for the implementation of the revised Policy as outlined in this report.

FINANCIAL CONSEQUENCES FOR THE REVENUE AND CAPITAL BUDGET

Current sickness absence levels across the City Council run at 12.09 days per employee. In addition to the adverse impact on service delivery and the morale of staff remaining in work, it is estimated that a further £2 – 3 million in additional costs are incurred through overtime at premium rates, and use of temporary and agency staff as essential cover in child care services and residential homes.

The adoption of a revised Managing Attendance Policy, supplemented by an intensive implementation programme involving training of all managers and bringing a sharper focus on the impact of employee absence, is expected to reduce overall absence levels, thereby improving quality of service delivery and reducing the incidence of additional staffing as cover for absence.

CONTACT OFFICERS

Jon Redfern, Head of Personnel

Tel: 0161 234 1800

e-mail: j.redfern@manchester.gov.uk

Pat Fetherstone, Personnel Manager
e-mail: p.fetherstone@manchester.gov.uk

Tel: 0161 234 1847

BACKGROUND DOCUMENTS

WARDS AFFECTED

All

IMPLICATIONS FOR:

ANTI POVERTY	EQUAL OPPORTUNITIES	ENVIRONMENT	EMPLOYMENT
No	Yes	No	Yes

1. INTRODUCTION

- 1.1 As part of its wider approaches to recruitment and retention of a trained and motivated workforce, the Council has a range of strategies in place to support employees in maintaining their health and well-being. This ensures that employees are fit to attend work and fulfil their duties.
- 1.2 All employees are required to attend work and fulfil their contractual obligations, however it is recognised that employees may from time to time be prevented from attending work through ill health. Equally, the 'triggers' for reviewing absence should not be implied as being an 'acceptable' level of absence and recognisable or suspicious patterns of absence e.g. on Fridays and/or Mondays, before or after Bank Holidays or sporting events will be reasonable grounds for further investigation. It is also recognised that some employees may be absent through wilful non attendance, unrelated to ill health. Where this occurs employees will be investigated under the City Council's Disciplinary Procedure.
- 1.3 The Council fully supports the Disability Discrimination Act 1995 and is committed to ensuring that disabled employees are not treated less favourably than other employees.
- 1.4 The overall sickness absence levels within the City Council have been increasing over the last few years as shown at Appendix 1 and are currently running at 12.09 days per employee. However, the Council has a duty to maintain service delivery and minimise disruption as high levels of sickness absence have implications for both service delivery and can result in additional costs to cover essential services.
- 1.5 Current sickness absence levels across the City Council run at 12.09 days per employee. In addition to the adverse impact on service delivery and the morale of staff remaining in work, it is estimated that a further £2 – 3 million in additional costs are incurred through overtime at premium rates, and use of temporary and agency staff as essential cover in child care services and residential homes.

2. MANAGING ATTENDANCE

- 2.1 The City Council's current Managing Attendance Policy, which came into force in April 2005, contains provision for disciplinary sanctions to be applied under the Disciplinary Procedure in cases of persistent and/ or long term sickness absence. The Head of Corporate Personnel meets regularly with the Head of Legal Services to consider matters referred to Legal Services and to consider policy issues. Arising from these discussions, it was determined that as part of a review of the Managing Attendance Policy, it would be appropriate to give particular consideration to how the Policy should be applied in the case of employees who fall under the provisions of the Disability Discrimination Act.

2.2 The Head of Corporate Personnel convened a working group in September 2008 with terms of reference covering the following:

- audit the current Managing Attendance Policy and Procedure;
- undertake research into best practice;
- identify and agree proposals for addressing attendance issues in the future;
- assess the impact of the proposals on the City Council's aim to promote an attendance culture and manage sickness proactively; and
- draft a revised Policy.

2.3 The working group was chaired by the Personnel Manager (Employee Relations) and comprised representatives from service managers, Corporate Personnel, Departmental Personnel, Occupational Health and Legal Services and the views of disabled staff were expressed at the working group by a representative of the Corporate Disabled Staff Steering Group (CDSSG).

3. REVISED MANAGEMENT OF ATTENDANCE POLICY

3.1 Aims

The proposed revised Policy is attached at Appendix 2 and aims to:-

- ensure that employees and managers are clear on their responsibilities and obligations with regard to attending work and managing attendance;
- empower managers to manage absence levels through provision of simplified guidance, better and more accessible management information and more practical support.
- address sickness absence in a way that is non-discriminatory and in accordance with the City Council's Equal Opportunities Policy;
- ensure a fair and consistent treatment of all employees who are absent from work;
- set out managers' responsibilities and empower them to manage absence levels;
- provide support for managers when considering the management of absence, particularly disability related issues – in accordance with the Disability Discrimination Act and the related Code of Practice and;
- reduce levels of sickness absence.

3.2 Main Changes

The main changes proposed to the Managing Attendance Policy and Procedure are:-

- the removal of attendance management from the disciplinary process, except where there are clear cases of abuse or failure to comply with procedures;
- the introduction of Improvement Notices and Attendance Management Warnings which will remain live for 12 months;
- improved guidance on issues to consider when managing employees' attendance; and
- improved guidance on the consideration of absences falling under the provisions of the Disability Discrimination Act.

4. CONSULTATION

- 4.1 The proposed revised Managing Attendance Policy has been subject to an extensive consultation process.
- 4.2 Comments on the draft document have been invited from the Corporate Disabled Strategic Steering Group (CDSSG), the Corporate Black Staff Steering Group, the Lesbian, Gay, Bisexual and Transgender Employee Group and the Trade Unions. The draft Policy and Procedure has also been considered by the Human Resources Sub group of the Resources and Governance Overview and Scrutiny Committee where a number of points were made which have been incorporated into the draft Policy attached.
- 4.3 The views of an experienced employment Barrister have been obtained and we are satisfied that the revised policy meets all of the City Council's legal obligations and requirements as an employer.
- 4.4 Service Managers have also been consulted on these proposals and a number of useful comments have been made which are reflected in the proposed revised Policy.
- 4.5 The main points arising from the consultation exercise were:-
- 4.5.1 Concern was expressed by the Disabled Staff Group that there is no provision within the revised scheme for a distinct 'disability leave' scheme – whereby all disability-related absences are recorded separately and disregarded for the purposes of pay and management of attendance.
- 4.5.2 Concern was expressed by the Trade Unions that the draft revised Policy and Procedure did not mirror disciplinary arrangements, either procedurally or in terms of the duration of warnings. Neither the current, nor the proposed Managing Attendance Policies have been agreed by the trade unions.
- 4.6 In response to these concerns:-
- 4.6.1 A key objective of the revised Policy is to adopt a measured and proportionate approach towards protecting and enhancing the interests

and well-being of all employees balanced with the duty to maintain service delivery and minimise disruption.

- 4.6.2 Only one out of 13 local authorities approached whilst conducting research into good practice, adopted a disability leave scheme when managing sickness absence. The aim of the Managing Attendance Policy is to provide an inclusive culture to support all individuals in attending work and fulfilling their contract of employment. It is contended that the Policy as proposed allows and encourages managers to treat each case individually, be open and fair and assess fully all circumstances before making an informed decision on action. In the case of disabled staff this could include consideration of absence for rehabilitation and treatment, acquiring or modifying equipment, altering a person's working hours, assigning a person to other work and providing flexible working arrangements. It is therefore considered that a separate disability leave scheme is not appropriate or necessary as a means of ensuring that the City Council gives proper consideration to the circumstances of staff covered by the Disability Discrimination Act.
- 4.6.3 The draft revised Policy and Procedure will empower managers to review all the circumstances surrounding an individual's absence and to make reasonable adjustments with regard to levels of absence for disabled staff. Absence from work in order to attend hospital appointments, assessments, physiotherapy etc. is also permitted within the draft revised Policy.
- 4.6.4 Sickness itself is not an act of wilful misconduct. Consistent with legal advice received, the recommended Policy encourages managers to give a fuller reflection on an individual's absence record. Warnings will only be applied where the level of absence does not improve following consideration of all the circumstances, including medical opinion and appropriate support mechanisms being explored.
- 4.6.5 It is proposed that warnings will remain live for 12 months in order to enable managers to assess progress over the reference period and ensure that improvements are sustained.

5. IMPLEMENTATION

- 5.1 Subject to the Committee approving this Policy and Procedure, a Personnel Circular will be issued to all Heads of Service and Personnel Officers informing them that the revised Policy and Procedure should be implemented immediately.
- 5.2 Managers will be empowered to manage absence levels through provision of simplified guidance, better and more accessible management information and more practical support for managers.

- 5.3 A corporate programme of training for managers has been developed and will be delivered on a rolling basis in order to ensure that the Policy is applied fairly and consistently. Apart from the technical aspects of procedure, the training will focus on providing managers with the necessary skills and confidence to apply the new arrangements in a proportionate and consistent manner.
- 5.4 Managers will be equipped to monitor, manage and control absence through:
- 5.4.1 Attending mandatory training on the new Policy and Procedure, to be followed by a rolling programme for new managers and refresher training and/or workshops for existing managers.
- 5.4.2 Provision of management information.
Managers will be able to run their own reports and access their staff's absence records through the SAP facility.
Reports on absence levels for their respective services will be circulated quarterly to Executive Members and Strategic Directors.
- 5.4.3 Access to Personnel support, including assistance with identification of 'hot spots' and development of discrete interventions to manage particular problems.
- 5.5 A review of the Policy will be undertaken after 12 months in order to monitor absence levels and the performance of managers and to evaluate and validate the Policy. Furthermore, an Equality Impact Assessment will be conducted every three years, to ensure compliance with the Council's equality duty, particularly in relation to disability.

6. MANAGEMENT OF ATTENDANCE ARRANGEMENTS

- 6.1 Aside from Policy changes much work has been in progress to reduce levels of absence and the impact absences have on service delivery.
- 6.2 Effective arrangements for absence management remains high on the agenda in Directorates and all services have sickness absence targets set by Departmental Management Teams.
- 6.3 Changing and new management structures within Directorates historically has made the provision of timely management information difficult. However, process improvements are currently being made in the Personnel Shared Service Centre to ensure that management information is based on up to date organisational structures and staff deployments.
- 6.4 Additionally, work is ongoing to enable managers to run their own reports and to directly access their staff's absence records through SAP. This will provide managers with easily accessible information as they need it and will support greater managerial ownership of absence levels.

- 6.5 Further developments in manager 'self-service' will mean a reduction in time elapsed between an individual's absence and their manager's access to the individual's sickness record; this will encourage managers to act promptly in addressing instances of absence.

7. CONCLUSION

- 7.1 The revised Policy and Procedure will provide an effective tool for managers and empower them to manage levels of sickness absence effectively, whilst ensuring that the City Council meets all its legal obligations and requirements.
- 7.2 The promotion of an attendance culture will help to reduce the current high levels of sickness absence, minimise disruption to service delivery and reduce the costs associated with employee absence.

8. IMPLICATIONS FOR EQUAL OPPORTUNITIES AND EMPLOYMENT

- 8.1 The revised Policy and Procedure contains improved guidance for managers when addressing the disadvantages experienced by disabled people in work.
- 8.2 It aims to ensure that disabled staff will not experience any less favourable treatment than their colleagues and that all reasonable adjustments will be made to enable disabled employees to remain in work.

ATTACHED AS APPENDICES

1. Sickness absence levels: Average days lost per employee from March 2006 to March 2009.
2. Proposed Managing Attendance Policy and Procedure.

APPENDIX 1

SICKNESS ABSENCE LEVELS MARCH 06 TO MARCH 09

	March 06		March 07		March 08		March 09	
	No. Employee	Average Days Lost	No. Employee	Average Days Lost	No. Employee	Average Days Lost	No. Employee	Average Days Lost
Libraries	510	10.32	464	10.20	447	12.61	436	11.36
Neighbourhood Services	5213	12.63	6192	14.85	5875	14.89	5158	15.77
Corporate Services	1077	7.42	1114	10.07	1084	9.37	924	8.75
Chief Executive's	1364	7.60	1325	10.73	1626	9.76	2151	9.98
Galleries	121	5.43	107	7.88	106	6.12	136	6.66
Leisure	233	10.83	228	10.87	221	9.44	184	11.34
Children's Services	5069	10.62	3478	12.30	2727	13.26	2632	12.81
Schools	9615	9.71	9382	10.12	9487	10.20	9563	10.56
Total	23202	10.68	22290	11.81	21573	11.81	21184	12.09



MANCHESTER
CITY COUNCIL

MANAGING ATTENDANCE POLICY



Corporate Personnel

APRIL 2009

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MANAGING ATTENDANCE POLICY

1. Purpose of Policy

- 1.1 Manchester City Council values the contribution of its staff in the delivery and maintenance of quality services to the people of Manchester. Whilst recognising that employees may be prevented from attending work through ill health, the authority has a duty to maintain service delivery and minimise disruption.
- 1.2 The City Council is, therefore, committed to managing attendance and sickness absence and creating a culture within which all employees work to maximise attendance for the benefit of both themselves, the community and other stakeholders.
- 1.3 The City Council will achieve this through:-
 - promoting the health, safety and well-being of all employees;
 - monitoring levels of sickness absence for individuals, teams, departments, and the authority as a whole; and
 - implementing procedures to provide support for staff when absent, whilst addressing unjustified and/or high levels of sickness absence.

2. Scope

- 2.1 This policy covers the management of both short-term absences and long-term sickness absence.
- 2.2 This policy supersedes the earlier Managing Attendance Policy and Procedure issued in 2005, which should be discarded immediately.

3. Staff Covered

- 3.1 This Managing Attendance Policy applies to all staff employed by the City Council, including teachers in a centrally managed service.
- 3.2 The Policy will not apply to those in their probationary period of service (covered by the Procedure for Managing Probation) and teachers employed

by schools, who will be covered by separate terms and conditions relating to their employment.

4. Principles

Within this policy the City Council will:-

- deal with sickness absence in a way that is non-discriminatory and in accordance with the City Council's Equal Opportunities Policy;
- ensure a fair and consistent treatment of all employees who are absent from work;
- seek medical advice from appropriate practitioners before reaching key decisions;
- make reasonable adjustments as appropriate to take account of any disability of an employee in accordance with the Disability Discrimination Act and the related Disability Equality Duty and Code of Practice; and
- conduct sickness absence cases with respect for confidentiality and in accordance with the requirements of the Data Protection Act and the Access to Medical Records Act.

5. Roles and Responsibilities

5.1 Employees are expected to:-

- attend work and fulfil their contractual obligations;
- comply with the sickness absence reporting procedure (see Appendix 2);
- attend medical referrals/appointments/case conferences;
- attend Return to Work interviews and Attendance Monitoring Reviews;
- comply with safe working practices and procedures; and
- participate in treatment programmes, e.g. alcohol policy.

5.2 Managers/Supervisors will monitor, manage and control absence by:-

- conducting Return to Work interviews (see Appendix 3) and Attendance Monitoring Reviews without delay and arranging Attendance Management Hearings where appropriate;
- ensuring the preparation and completion of all documentation, including confirmation letters;
- initiating referrals to the Occupational Health Unit, attending case conferences and making provisions for agreed actions to be carried out;

(advice on making a referral to the Occupational Health Unit can be found at)

- maintaining regular contact with employees;
- seeking advice where necessary and making reasonable adjustments to the Policy and Procedure where appropriate.

5.3 Personnel Advisers will:-

- provide clear, up-to-date guidelines about managing attendance and capability issues and other policies e.g. alcohol/drugs;
- provide relevant information as available;
- issue advice to managers as requested;
- advise on the employment aspects of managing long term sickness absence cases;
- advise on strategies to reduce sickness absence on an individual or overall basis;
- advise/assist managers on matters of dismissal when necessary;
- highlight any problem areas and bring to the attention of the appropriate senior manager.

5.4 Occupational Health Unit

5.4.1 The purpose of Occupational Health is, in the first instance, to prevent sickness absence. However, when sickness absence does occur, the aim is to facilitate an early, safe return and rehabilitation into the workplace.

5.4.2 Occupational Health Advisers will:-

- advise managers with regard to conditions falling under the provisions of the Disability Discrimination Act;
- assess the physical and mental fitness of employees and advise managers of the work constraints caused by the employee's medical condition(s), e.g. advise on work restrictions, modifications, redeployment etc.;
- seek to obtain medical information from GP's and Specialists and make onward referrals as appropriate (including Occupational Health Physician, physiotherapy, counselling);
- advise managers on how the ill health of an employee can best be resolved, to facilitate a speedy return to work;
- advise, when possible, on the expected length of recovery periods and/or return to work dates;
- advise Managers and employees at case conferences;
- advise on the need to seek consent to access medical records;
- advise managers of any failure to attend appointments;
- provide management reports;

- recommend management actions that are based on the medical circumstances of an employee.

6. Conduct Issues

Failure to comply with the provisions of the Managing Attendance Policy and Procedure, for example by:-

- providing false information;
- failing to comply with the reporting procedure;
- failing to attend medical appointments; or
- failing to provide medical certificates when due

may result in disciplinary action (up to and including summary dismissal) being taken under the City Council's Disciplinary Procedure. It may also lead to loss or suspension of pay.

7. Records Management

- 7.1 Each period of absence will be formally recorded and information on an employee's absence will be provided to supervisors/managers to assist them in promoting a high attendance culture.
- 7.2 The employee's absence records may be used as part of any review of absence or any other occasion where the supervisor/manager believes that the information is of material relevance to any decisions regarding the employee.
- 7.3 Absence records constitute confidential information and will be retained in accordance with the Managing Attendance Policy and Procedure and any other related statutory acts such as the Data Protection Act.

MANAGING ATTENDANCE PROCEDURE

1. Notifying Absence

In order for service delivery to be maintained, it is essential that an employee informs their supervisor/manager of their inability to attend work and the reason for this on the first day of absence - before 10:00 a.m. (or by the time they are due to commence work or an agreed time negotiated locally by the Department).

- 1.2 Staff should report the absence in person or by telephone. E-mails or text messages are not acceptable (unless previously agreed that it is not possible to communicate by telephone). Absence reports should not be made by other people (partners or family friends) unless there are exceptional circumstances e.g. emergency hospitalisation.
- 1.3 In order to assist management to assess the likely duration of absence and arrange the necessary cover, employees also need to specify the length of time they expect to be absent. If this is not possible the employee must follow the reporting procedure on each day of absence.
- 1.4 If their supervisor/manager is not available then they must contact another designated supervisor/manager and leave a contact number. It is not appropriate to leave a message with a colleague.
- 1.5 If for some reason their supervisor/manager is not available, the employee should expect the supervisor/manager to telephone him/her at home later to establish a reason for the absence.
- 1.6 If the absence continues for more than seven days (including non-working days) then a Medical Certificate (Sick Note) is required from the employee's doctor and must be sent in to his/her supervisor/manager no later than four days after the expiry of the previous self-certified period, or the expiry of a previous sick note.
- 1.7 In cases where an employee returns to work prior to the expiry of a Medical Certificate, then the employee must provide, before returning to work, a signing off note.
- 1.8 **The full reporting procedure is set out at Appendix 2.**
- 1.9 Failure to inform the supervisor/manager may lead to absence from work being considered as unauthorised, resulting in loss of pay and possibly disciplinary action.

2. Dealing with Short Term Absence

2.1 Triggers

2.1.1 The purpose of triggers is to alert supervisors/managers to undertake a review of an employee's record of absence and assess whether further action is necessary. They should not be used as a substitute for a full consideration of each individual's circumstances and the nature of their absences.

2.1.2 The following triggers will prompt a supervisor/manager to examine an employee's absence record:-

- five or more days of absence in the last three months;
- three or more occasions of absence in the last three months.

2.1.3 In addition, a supervisor/manager may decide to examine an employee's absence record where there is a specific cause for concern. For example:-

- recognisable patterns of absence e.g. on Fridays and/or Mondays, before or after Bank Holidays; or
- increase in absence following expiry of an Improvement Notice or an Attendance Monitoring Warning.

2.1.4 Modification of these triggers can be considered when reviewing an individual's personal circumstances (see Appendix 1).

2.2 First Attendance Monitoring Review

2.2.1 If triggers are hit or specific concerns arise (see para. 2 above), an Attendance Monitoring Review will be held as soon as possible to:-

- explore the reasons for absence;
- seek to identify any underlying cause;
- discuss and agree any support mechanisms needed;
- review previous attendance record and determine whether any further action is required (e.g. referral to the Occupational Health Unit);
- consider any reasonable adjustments (see Appendix 1);
- explain the impact of absence on service delivery and emphasise the importance of good attendance.

2.2.2 Possible outcomes of Attendance Monitoring Review:-

- **take no further action; or**
(Only in exceptional cases should no action be taken.)
- referral to the Occupational Health Unit in order to:-
 - assess current medical position;
 - establish whether there is any underlying medical reason;

- establish whether the reason for the absence(s) falls within the provisions of the Disability Discrimination Act; and/or
- support mechanisms established; and/or
- reasonable adjustments agreed; and/or
- appropriate review/monitoring period established; and/or
- identification of improvement needed and Improvement Notice issued where considered appropriate (see below)

2.2.3 The manager/supervisor will write to the employee within 10 days of the meeting, confirming the points discussed at the Attendance Monitoring Review and any actions identified.

2.2.4 It is important to implement any actions identified as soon as possible.

2.2.5 **Improvement Notice**

Where it is considered appropriate to issue an Improvement Notice, the Notice will contain a caution that if the improvement identified at the Attendance Monitoring Review is not achieved and sustained for 12 months, then a further Attendance Monitoring Review may need to be held.

Should an Improvement Notice be issued, the employee will be informed of the right to appeal. (See para. 5.)

2.3 Second Attendance Monitoring Review (AMR)

2.3.1 A second Attendance Monitoring Review will be held if:-

- triggers are hit (see para 2.1 above); or
- insufficient improvement is achieved during the review period established at the first Attendance Monitoring Review; or
- a recurring, recognisable pattern of absence emerges e.g. Fridays and/or Mondays, before or after Bank Holidays.

2.3.2 The purpose of this meeting is to:-

- review the overall level of absence;
- review issues discussed at the first Attendance Monitoring Review;
- review any medical advice;
- review support/reasonable adjustments provided;
- discuss what further support may be appropriate;
- explain impact of absence on service delivery and emphasise the importance of good attendance;
- identify improvement needed; and
- warn of possible consequences if improvement is not achieved.

2.3.3 Possible Outcomes

- no further action taken; or
- referral to the Occupational Health Unit in order to re-assess medical position; and/or
- further review/monitoring period established; and/or
- identification of improvement needed and Attendance Management Warning issued where considered appropriate.

2.3.4 The manager/supervisor will write to the employee within ten working days of the meeting, confirming the points discussed and actions identified.

2.3.5 Attendance Management Warning

Should an Attendance Management Warning be issued, the employee will be informed of the right to appeal. (See para. 5.)

The employee will also be cautioned that if the improvement identified is not achieved and sustained for 12 months, then an Attendance Management Hearing may be held which may result in a decision to dismiss on notice.

N.B. Additional meetings (**which must be documented**) can be held at any stage, outside the formal attendance monitoring review meetings, to discuss support mechanisms etc.

2.4 Attendance Management Hearing

2.4.1 The employee and his/her representative will, no later than 10 working days before the hearing, be informed in writing of the date, time and venue of the hearing. The letter will set out the detailed reasons for the hearing and copies of any documentation it is intended to rely on will be circulated with the written notification of the hearing. Additionally the written notification should caution the employee that the hearing might result in a decision to dismiss on notice.

2.4.2 The management case will be presented to a senior manager together with all documents relevant to the employee's health and attendance. Any representation made by the employee or the employee's representative, or any written submission made in the employee's absence will be given due consideration before any decision is taken.

2.4.3 The senior manager will consider:-

- the employee's overall absence record;
- whether the reason for the absence(s) falls within the provisions of the Disability Discrimination Act;
- the management of the case;

- the impact of the level of absences on the service;
- the medical advice received;
- the support/reasonable adjustments provided;
- any further action that can be taken;
- options for redeployment on medical grounds;
- whether ill health retirement has been considered;
- representations from the employee.

2.4.4 Possible Outcomes of an Attendance Monitoring Hearing

- no further action taken;
- further medical evidence sought;
- consideration of further reasonable adjustments;
- consideration of alternative employment;
- further Attendance Management Warning issued with further review period established;
- dismissal with notice.

2.4.5 The senior manager will write to the employee within 10 working days of the meeting, confirming the points discussed and actions identified and, if a further Attendance Management Warning or dismissal is the outcome, informing him/her of the right to appeal. (See para. 5.)

3. Dealing with Long Term Absence

3.1 Absences of more than 20 consecutive working days are considered long term.

3.2 When an employee is absent from work due to sickness it is important that regular contact is maintained so that the employee does not feel isolated, vulnerable or out of touch. The manager may also need to reallocate work so that service delivery is maintained.

3.3 An Attendance Monitoring Review will be held after the first four weeks' absence, and then every four weeks in order to:-

- explore reasons for absence/identify progress;
- seek to identify any underlying cause/whether the Disability Discrimination Act applies;
- ask about treatment and/or specialist help being received
- advise that an Occupational Health referral will be made;
- establish if date for return to work can be given;
- establish review periods;
- bearing in mind any disability issues and medical advice received, consider:-
 - reasonable adjustments
 - other support mechanisms
 - redeployment on medical grounds
 - ill health retirement
 - structured/phased return to work
- explain the consequences of continued absence.

3.4 The points discussed and actions identified at the Attendance Monitoring Reviews will be confirmed in writing to the employee within 10 days of the meetings.

3.5 Attendance Management Hearing

3.5.1 Where all options have been exhausted and ill health retirement has not been recommended, an Attendance Monitoring Hearing will be held.

3.5.2 The employee and his/her representative will, no later than 10 working days before the hearing, be informed in writing of the date, time and venue of the hearing. The letter will set out the detailed reasons for the hearing and copies of any documentation it is intended to rely on will be circulated with the written notification of the hearing. Additionally the written notification should caution the employee that the hearing might result in a decision to dismiss on notice.

3.5.3 The management case will be presented to a senior manager together with all documents relevant to the employee's health and attendance. Any representation made by the employee or the employee's representative, or any written submission made in the employee's absence will be given due consideration before any decision is taken.

3.5.4 The Attendance Management Hearing will be heard by a senior manager who will review the case and consider:-

- whether the reason for the absence(s) falls within the provisions of the Disability Discrimination Act;
- the support/reasonable adjustments provided and determine whether these were sufficient;
- the overall absence record;
- the management of the case;
- the impact of the absence on the service;
- the medical advice received;
- any further action that can be taken;
- options for redeployment on medical grounds;
- whether ill health retirement has been considered;
- establishment of a possible further review period;
- representations from the employee;
- options for redeployment;
- dismissal.

3.5.5 The supervisor/manager will write to the employee within ten working days of the meeting, confirming the points discussed and actions identified and, if dismissal is the outcome, informing him/her of the right to appeal. (See para. 5.)

4. Return to Work

- 4.1 Upon return to work following a short term **or** a long term sickness absence the supervisor/manager should arrange to meet privately with the employee, ideally during the first day back or at least within two days of the return to work. (For guidance on how to conduct a Return to Work Interview see Appendix 3.)

5. Rights of Appeal

- 5.1 An employee issued with an Improvement Notice or an Attendance Management Warning will have the right to appeal to a nominated 2nd tier Officer (or their representative).
- 5.2 In cases of dismissal with notice, the employee will have the right to appeal to their Strategic Director (or their nominee). This will constitute a full rehearing of the Attendance Management Hearing. There will be a further right of appeal to Elected Members.

6. Sanctions

- 6.1 An Improvement Notice or a warning issued under the Managing Attendance Policy will remain live for 12 months and run parallel to disciplinary warnings. They will not be used for 'totting up' purposes should any disciplinary sanction be imposed under the City Council's Disciplinary Procedure.

7. Right to Representation

- 7.1 Employees may be represented, if they so wish by a trade union representative, friend or colleague at Attendance Monitoring Reviews and Attendance Management Hearings.
- 7.2 If the representative cannot attend on a proposed date for a meeting, an alternative representative should be nominated or the meeting re-arranged to a time and date which is **no more than five working days** after the proposed date, unless agreed by both parties.

8. Redeployment

- 8.1 Where the Occupational Health Unit recommends redeployment on medical grounds an employee will be covered by the provisions of the City Council's Redeployment Scheme. (Also see Appendix 1.)

9. Ill Health Retirement

- 9.1 Retirement on the grounds of ill health can only be considered after all other options have been exhausted and where an independent registered medical practitioner, qualified in occupational health medicine, determines that an employee meets the criteria for ill health retirement, in accordance with the Local Government Pension Scheme Regulations.
- 9.2 Where ill health retirement is pursued, this is effected by dismissal with notice. The employee is able to appeal against the decision (see para. 5), normally on the grounds of contrary medical evidence.

10. Dismissal

- 10.1 Where all appropriate options have been explored, the dismissal of an employee is one which will need to be considered. To dismiss fairly the employer has to show:-
- the reason (or the principal reason) for dismissal; and
 - that, in the circumstances, the employer acted reasonably in treating it as a sufficient reason for dismissal.
- 10.2 Where the decision to dismiss is made, the dismissal will be with appropriate contractual notice.
- 10.3 It is important to note that lengthy delays in dealing with long term sickness absence cases which end up in dismissal may lead to a successful unfair dismissal claim at Employment Tribunal.

Appendices

- 1. Disability Discrimination Act**
- 2. Notifying/Reporting Procedure**
- 3. Return to Work**

Appendix 1

Disability Discrimination Act

1. General

- 1.1 The Disability Discrimination Act prohibits an employer from discriminating against an employee by dismissing or otherwise treating that employee less favourably because of his or her disability. An employer will not be considered to have discriminated against an employee if its action is 'justified'.
- 1.2 Dismissal will hardly ever be justified unless an employer has obtained a detailed medical examination of the employee, to determine the full extent of the disability, in order to decide whether any reasonable adjustments are an alternative to dismissal.

2. Definition Of Disability

- 2.1 A person has a disability for the purposes of this Act if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The impairment must be long term i.e. has lasted or likely to last at least 12 months.

3. Reasonable Adjustments

- 3.1 When a disability is identified, in accordance with the Disability Discrimination Act, an employer has a duty to make reasonable adjustments. Some examples of reasonable adjustments are:-
 - modifying the triggers when reviewing an employee's record of absence;
 - adjusting working arrangements;
 - altering working hours;
 - changing work location;
 - changing duties;
 - reallocating tasks;
 - making adjustments to physical environment/premises;
 - acquiring or modifying equipment;
 - providing appropriate training;
 - modifying instructions or reference manuals;
 - providing supervision;
 - allowing authorised absence for medical appointments, assessment, treatment, counselling or rehabilitation activities.

- 3.2 A reasonable adjustment may also involve transferring the employee to fill a suitable existing vacant post. It will be necessary to obtain advice from Occupational Health regarding the tasks which the employee is capable of undertaking and in all such cases advice must also be sought from a Personnel Adviser.
- 3.4 All decisions taken with regard to making (or not making) reasonable adjustments must be documented. The justification for reaching such decisions should also be documented.

4. Short Term Absence

- 4.1 An employee's disability may have an impact on their attendance and cause intermittent short term absences.
- 4.2 In those cases where there is a known disability, as defined, Managers need to determine whether each absence may be attributed to that employee's disability. In many instances the employee will tell the Manager which absences are not directly related to their disability and this will assist the Manager in determining whether further actions need to be taken.
- 4.3 Where there have been a number of short term absences, meeting the Management Of Attendance triggers, and it is unclear which of those absences, if any, relate to the employee's disability Occupational Health advice must be obtained.
- 4.4 The referral must clearly identify full details of each absence including reason for the absence, dates and relevant information provided by the employee at the time of their return to work.
- 4.5 The Occupational Health Advisor will inform the Manager of those absences which, in their medical opinion, relate to the employee's disability. This information will enable the Manager to determine their actions.

5. Long Term Absence

- 5.1 When looking at dismissing employees with long term absence problems it is essential to consider the Disability Discrimination Act as well as unfair dismissal liabilities.
- 5.2 It is necessary that a manager makes proper investigations whenever an employee is absent for a significant period. Long term absence may indicate the likelihood of disability and therefore Occupational Health advice is needed to inform further management actions.
- 5.3 All Referrals made to Occupational Health, irrespective of whether absence has occurred or the length of any absence, will be given consideration in relation to the Disability Discrimination Act and wherever possible the

Occupational Health Unit will indicate whether the provisions of the Disability Discrimination Act apply. Managers will be informed of the medical opinion, on the basis of the information available at that time, in the Response Form.

6. Dismissal

- 6.1 The dismissal of a disabled employee, on the grounds of his or her disability, or subjecting an employee to any other detriment on the grounds of his or her disability is unlawful under the Disability Discrimination Act. However, where an employee's disability makes it impossible for him her to perform the main functions of their job, and all reasonable adjustments have been fully explored, termination of employment can be justified.
- 6.2 In addition to considering whether suitable alternative employment is available the case must be referred to Occupational Health for the consideration of ill health retirement.
- 6.3 In all cases a Personnel Adviser must be consulted before starting the dismissal process.

Appendix 2

NOTIFYING/REPORTING PROCEDURE

The reporting procedure outlined below is a generic procedure recommended for departments. However, some departments/divisions may find they have specific circumstances e.g. earlier start times that require a local approach to reporting absence. Departments are advised to develop local protocols to address specific problem areas.

Day 1

- 1 All staff must notify the designated manager on **the first day of absence before 10:00am. (This time may be different depending on the needs of a particular service).**
- 1 Staff should report the absence in person or by telephone. E-mails or text messages are not acceptable (unless previously agreed that it is not possible to communicate by telephone). Absence reports should not be made by other people (partners or family friends) unless there are exceptional circumstances e.g. emergency hospitalisation.
- 2 If the designated manager is not available the employee must ask to speak to another manager. It is not appropriate to leave a message with a member of staff.
- 3 If for some reason a manager is not available, the employee should leave a contact number and expect the manager to telephone them at home to establish a reason for absence.
- 4 **Employees must give the following details:**
 - 5.1 **Cause of absence** - note confidentiality rule. If the employee is unable to discuss the reason for absence with their line manager the employee must speak to a designated Personnel Adviser. The Personnel Adviser will not divulge any confidential information but will advise the manager if the request for confidentiality is reasonable. (This would be in unusual circumstances only).
 - 5.2 **Likely date of return to work** - although this may change following a visit to the doctor for example the employee must inform their manager of a likely date or if they are intending to go to visit their doctor.
 - 5.3 Any **appointments, outstanding work, deadlines, training** that will need re-arranging or reallocating.
 - 5.4 Where an employee is not able to give an expected date of return they must ring each day to keep the manager updated on their health.

**5.5 FAILURE TO REPORT ABSENCE IN THE MANNER DESCRIBED ABOVE
MAY RESULT IN AN EMPLOYEE LOSING PAY.**

Often managers are presented with a variety of reasons for absence. These notes may help managers in their decision making.

Unwell

This is not an acceptable explanation for absence. Managers should ask for more information about the symptoms and how they are affecting the employee's ability to work.

Out late, too much to drink

Again this is not an appropriate reason for absence. Employees should be reminded of their responsibilities to work. If this is often the case then you may need to discuss the alcohol policy with personnel.

Broken limb

You need to decide whether or not this prevents them from doing their job. Could they attend work doing other duties? Is short term job re-design an option?

Emergency child care, child sickness, death of close relative

Ask Personnel for advice on help the City Council can offer. Children's Services for instance operate an emergency childcare crèche. The employee can be granted special leave in certain situations e.g. death of a close relative. (See Special Leave policy guidelines.)

Relationship issues, stress in private life

You need to be sure that the employee was unfit to work. Has the problem caused a medical condition? You may need to access support, such as counselling, through the Medical Officer. Could the employee have taken some annual leave to sort problems out?

Stress and work-related reasons

This needs to be taken seriously. You need to consider what the employee is telling you. Look at the workload, environment, and location. Carry out a stress risk assessment. If this is an underlying cause of absence you must try to assist in finding appropriate remedies or resources. Record all offers of support.

Day 2

Employees who have not given a likely date of return must phone the designated manager every day.

Day 8 onwards

Employees must:

- 1 **Get a medical certificate (Sick Note) from their doctor** and tell their manager that they have this. They should state the date it has been signed as well as an expected date for return to work. If they have not got a medical certificate they should inform their manager of their GP appointment and arrange to make contact after this.
- 2 **Send the certificate to their manager.** It is essential that the certificate covers the whole period of absence. The manager must be contacted immediately when a new certificate has been issued. The new certificate must arrive within 4 days of the previous one expiring.
- 3 For the purpose of Medical Certificates all days including weekends and Bank Holidays are counted.

Managers must:

- Ensure they have all the relevant information from the employee.
- Send the original certificate by internal post to Payroll.
- Make a record of the key points of any discussion.

FAILURE TO PRODUCE A MEDICAL CERTIFICATE MAY RESULT IN AN EMPLOYEE LOSING PAY.

Appendix 3

RETURN TO WORK

1. Return to Work Interviews

- 1.1 After all periods of absence managers/supervisors must carry out a Return to Work interview. This should be done within 2 days of the employees return to work.
- 1.2 A Return to Work interview is the first opportunity managers/supervisors have of discussing the reasons relating to an absence with an individual employee, update them on work issues and express concerns regarding their absence.
- 1.3 Return to Work interviews should be:
 - Held on a one-to-one basis;
 - Be conducted in private;
 - Treated as confidential by both parties.
- 1.4 Managers/Supervisors should cover the following points in their Return to Work discussion with employees, depending on the circumstances of each case:-
 - Demonstrate an interest in the employee's welfare;
 - Check that the employee has followed the procedure for reporting sickness and all medical certification has been completed and received as per guidelines. Establish explanation/mitigation if appropriate. If procedures have not been followed the Manager/Supervisor should explain to the individual what action if any, is being taken in relation to non-compliance e.g. stoppage of pay, disciplinary action.
 - Reaffirm the cause of absence. Confirm with the employee the reason for their absence and help identify underlying causes and possible ways of avoiding recurrence - is sickness an excuse for another problem? Use open ended questions to draw out any issues or underlying factors, e.g. 'what were your symptoms?', 'what medical assistance have you had?', 'is there any further treatment required?'
 - Confirm that the employee has sufficiently recovered to return to work – if the employee is only partly fit to return to work, seek urgent advice from Personnel regarding the need for risk assessments (e.g. back pain).
 - See whether a pattern of absence is emerging – if so, this should be raised with the employee.

- Ask whether there is anything the manager can do to support the employee and whether there is anything the employee can do to support themselves.
- Decide whether any further action is required, e.g. referral to Occupational Health Unit, Attendance Monitoring Review, disciplinary action.
- Explain the consequences of unacceptable levels of absence.
- Update the employee on work related issues arising in their absence.
- Emphasise the importance of good attendance and the effects absence has on team/colleagues/service delivery.

2. Completing the Return to Work Form

- 2.1 It is very important that the Return to Work form is completed fully and correctly.
- 2.2 Every time you have a meeting concerning an employee's absence it should be recorded. This may be a one-off incident or it may be the beginning of a problem. If you don't have a record of a meeting or Return to Work, you cannot include it in any future proceedings.
- 2.3 In cases that lead to action under the Attendance Monitoring Procedure, if the Return to Work form is inadequate or action stated has not been undertaken, this will seriously weaken the case and harm employment relations between the individual and the manager/supervisor.
- 2.4 The employee should sign the Return to Work form and be given a copy.
- 2.5 It is essential that managers follow up any recommendations for further action as soon as possible. Again, if action is taken under the Attendance Management Procedure and the manager/supervisor has failed to take the follow-up action agreed the case will be severely weakened and in all probability will fail.
- 2.6 Managers should consider the absence in relation to more serious problems and the occupation of the employee. In particular, short term absences i.e. stomach complaints may indicate an ulcer, muscular skeletal injuries may have longer term implications and therefore an early referral to occupational health may be beneficial.

3. If staff have not followed procedures

- 3.1 Managers must first confirm that the employee has had a copy of the procedures. If they have, the manager should inform the employee that they have not followed the procedure and warn them that this could mean loss of

pay and/or disciplinary action. Managers should ensure that the employee is given a copy of the procedure and that this is recorded on the form. In cases where an employee persistently fails to follow procedures, they must be issued with a copy of the written procedure with a letter informing them that any further breaches will be likely to lead to loss of pay and/or disciplinary action. (Seek advice from Personnel as necessary).

- 3.2 It is not appropriate to challenge or dispute the employee's claim of sickness. Where any doubts exist or if further issues arise from the Return to Work interview which require investigation this should be highlighted to the employee. However, a separate interview should be then convened as part of the disciplinary procedure.

LINK TO RTW FORM