



# **ATTENDANCE MANAGEMENT POLICY AND PROCEDURE**

DRAFT

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## 1. Policy Statement

- 1.1 This policy and procedure aims to encourage a high level of attendance that is crucial in enabling the council to meet its objectives. It encourages employees to attend work regularly and will assist managers to reduce levels of sickness absence in their teams in a fair and consistent way while maintaining a caring and a sympathetic approach towards the health and welfare of employees.
- 1.2 Sickness absence can have a significant impact on the council's ability to deliver efficient and effective services. Absence can increase stress among staff that are left to cover for absent colleagues and can also increase employment costs.
- 1.3 The council aims to create a work environment that promotes the physical, mental health and wellbeing of its employees. It seeks, where possible to accommodate those employees with health or welfare problems that affect their capacity to work.
- 1.4 To support this we will look at ways to adapt work to health problems wherever this can be achieved by reasonable adjustments. The aim is to help people remain engaged in their work despite their health problems and to achieve early return to work and rehabilitation back into the workplace.
- 1.5 We do not expect employees to attend work when they are too ill to do so. However, 'fitness for work' is often not an all or nothing situation and so the offer of alternative work, rehabilitation or phased return to work should enable people to contribute and retain employment when unable to carry out their full duties because of health problems.
- 1.6 The council is committed to the principle of equality of opportunity in employment, training and service delivery. We value each individual based on the positive contribution they can make and aim to ensure all employees are treated fairly and equitably.

## 2. Scope

- 2.1 This policy and procedure applies to all employees except the Chief Executive and managers employed under JNC Chief Officer Conditions of Service.
- 2.2 The policy and its implementation will be monitored in line with relevant legislation for its impact on different staff groups categorized for example by gender, marital status, race, ethnic origin, sexual orientation, age, religion or disability and others as appropriate. This process will provide a check on whether there are any differences and allow the council to take steps to eliminate differences that have an adverse impact on any particular group.
- 2.3 This policy should be used in conjunction with the Disciplinary Procedure where necessary.
- 2.4 Due to the varied nature of sickness absence and related issues, the procedure may be varied as necessary through discussion with HR.

### **3. Executive Management Team**

- 3.1 EMT is responsible for ensuring Heads of Service and Business Managers monitor sickness absence and that return to work interviews are signed off and submitted to Human Resources within five working days of the end of each month.

### **4. Managers' Responsibilities**

- 4.1 Managers are expected to communicate regularly with their staff and, in doing so, identify where any problems exist which may impact on attendance. They influence the behaviour of individuals within the workplace. They should ensure that all staff are familiar with the absence reporting procedure and are clear about the correct steps to take when they are ill and any follow-up action when they return to work. New employees need to be aware that attendance levels are reviewed as part of the induction/probationary process.
- 4.2 In addition, managers also have broader responsibilities for encouraging good attendance by ensuring that:
- support and assistance is provided to help employees reach and maintain the required standard;
  - employees have a reasonable workload;
  - employees undertake the necessary learning and development activities that are required for their role;
  - they are the first point of contact when the employee phones in sick;
  - they maintain contact with the employee during the period of sickness absence, particularly in the case of long term absence;
  - work is appropriately covered during the employee's absence;
  - sickness absence levels are monitored within their team to help create a positive environment and address any issues which may be contributing to increased absence levels;
  - patterns of absence which may cause concern are identified and appropriate action is taken;
  - return to work interviews are carried out for each case of absence; and
  - matters relating to an employee's attendance are dealt with sensitively and consistently, maintaining confidentiality, dignity and fairness.

### **5. Employees' Responsibilities**

- 5.1 Employees are expected to communicate regularly with their manager. They are encouraged to advise their manager of any problem that exists, or may arise, which impacts on their attendance. They have a duty to engage fully in the attendance management process and to work with their managers to find ways to avoid absence wherever possible. Whilst standards of attendance must be met, each case will be treated on its merits and any mitigating factors the employee puts forward regarding poor attendance, e.g. disability related absences, should be fully considered. These responsibilities include:

- Attending work unless unfit to do so;
  - Understanding the roles and procedures outlined in this procedure and in conjunction with their terms and conditions of employment;
  - Reporting sickness absence promptly in accordance with the procedure;
  - Ensuring the appropriate certifications are completed and provided;
  - Attending return to work interviews, formal stages and review meetings when required;
  - Maintaining contact with their manager at regular intervals in order to update on progress and changes in prognosis;
  - Ensuring medical advice and treatment, where appropriate, is received as quickly as possible in order to facilitate a return to work;
  - Not engaging in activity which may delay recovery;
  - Not taking up paid employment elsewhere whilst on sickness absence when working for the council;
  - Attending referral meetings to the Occupational Health Service, as required; and
  - Submitting to an examination by a medical practitioner nominated by the council as required.
- 5.2 Failure to co-operate and engage in the process will leave the council no alternative but to make decisions regarding their absence and future employment, based on information available at the time. In these cases, managers must refer to HR for advice.
- 5.3 Certain categories of illness must be carefully considered whether an absence should count towards the formal stages of the procedure. These categories are not exhaustive, however, would include any absences that are related to disability or pregnancy. For further guidance refer to HR.
- 5.4 Employees who fail to follow the sickness absence procedure may be subject to action under the council's Disciplinary Procedure. Unauthorised absence is considered to be misconduct and will be considered in accordance with the Disciplinary Procedure. In exceptional circumstances, the council reserves the right to withhold Occupational Sick Pay if an individual does not co-operate with reasonable requests from management/Human Resources, or does not comply with the requirements within this Policy and Procedure.

## **6. Trade Union**

- 6.1 Trade unions work with the council to assist with the process and play a vital role in supporting their members by working with the council to enable employees to maintain the attendance standards expected of the council. It is recommended that a trade union representative is contacted by the employee at the earliest stage in the formal process so that appropriate advice, guidance and support can be offered to the employee.

## 7. Human Resources' Responsibilities

7.1 Human Resources will monitor sickness absence. However, the prime responsibility for managing attendance remains with the manager. In addition Human Resources will:

- Provide advice/guidance and support as appropriate on a case by case basis
- Develop and advise on reasonable targets, review periods and timescales;
- Consider reasonable adjustments in line with the Equality Act; and
- Organise referrals to Occupational Health and liaise with Health and Safety and internal/external employee support resources where necessary

## 8. Sickness Absence Reporting Procedure

8.1 An employee who is sick and cannot attend work should normally contact their manager (or the person designated for the purpose within the service area) by a telephone call as soon as possible on the first day of absence, or within one hour of their normal start time at the latest.

8.2 Employees should not normally ask anyone else to make contact on their behalf unless it is not possible for them to do so. *It is not acceptable to leave a message with the Contact Centre.* If the designated person is not available when the call is initially made, then attempts must be made to call again later or leave a contact number so that the call can be returned later in the day by the manager/supervisor. **Absence should not be communicated via text message or email.**

8.3 When reporting absence from work due to sickness, employees will be expected to give as much of the following information as possible:

- The nature of illness and the anticipated length of absence;
- Details of any outstanding or urgent work that needs to be dealt with during the absence;
- Details of how they can be contacted if necessary, especially where the employee is staying at a different address during their absence.

8.4 Where an employee becomes ill while at work and feels too unwell to continue working, they must speak to their manager who will give permission for them to leave work (either temporarily or for the day) and for them to seek medical advice where appropriate. When an employee has attended work for half of their normal working day or more but has then had to leave due to illness, this will not be recorded as sickness absence for monitoring purposes.

8.5 Employees should, wherever possible, make full use of flexible working arrangements.

## **9. Certification**

- 9.1 For absence of 4 calendar days or more the employee is required to complete a self-certification form immediately on their return to work covering the first day of absence to the seventh. A Self Certificate is not required when a Statement of Fitness for Work is obtained that covers the employee from the first date of absence. Failure to comply with the certification procedure may result in loss of sick pay. Misleading or false statements will be dealt with under the council's Disciplinary Procedure.

## **10. Absences longer than Seven Calendar Days**

- 10.1 If the employee continues to be absent for more than 7 consecutive days (regardless of whether or not these are working days) they must consult a doctor and obtain a Statement of Fitness for Work or 'Fit Note', for the eighth day onward, which must be forwarded immediately to Payroll. Any delay in receiving the statement will require an explanation and may lead to sick pay being withheld. The employee must also contact their manager on the eighth day of absence to inform them of relevant details and likely length of absence.

## **11. The Statement of Fitness for Work or 'Fit Note'**

- 11.1 The Statement of Fitness for Work or 'fit note', focuses on what an employee may be able to do at work rather than what they cannot do.
- 11.2 A GP will be able to suggest ways and temporary adjustments that may help an employee to get back to work. This might mean discussing:
- a phased return to work
  - flexible working
  - amended duties
  - workplace adaptations
- 11.3 The GP's recommendations are not legally binding and the employer does not have to act on the advice or suggestions. If the changes suggested cannot be made for whatever reason, the statement will be regarded as saying 'not fit for work' for sick pay purposes. An employer is, of course, obliged to pay statutory sick pay and to make reasonable adjustments under the Equality Act 2010.

## **12. Hospitalisation**

- 12.1 In the event of hospitalisation, the same notification procedure should be followed unless the sickness/hospitalisation prevents this. The manager should be notified of the hospitalisation as soon as practicably possible, either by the employee or by a person acting on their behalf. Hospital admittance and discharge certificates should also be forwarded to the manager as soon as possible. It is not expected that employees should send further medical certificates during a stay in hospital providing admittance certificates have been forwarded.
- 12.2 Following the period of hospitalisation, any additional sickness absence reporting necessary should follow the procedure outlined in paragraphs 8 and 9.

**13. Work Related Ill Health or Injury**

13.1 If an employee or manager believes that ill health or injury has been caused at work, the employee should report this to their manager. In cases of injury, they should ensure this is recorded on the Health and Safety monitoring system and that an Accident Report Form is completed as soon as possible.

**14. Infectious Disease/Virus**

14.1 When an employee is unable to attend work due to having an infectious disease/virus, provided the absence is covered by a certificate/'Fit Note' then the sickness will not be counted against the individual's absence record, **but will still need to be reported.**

Examples include:

- Chicken pox
- Diphtheria
- German measles
- Mumps
- Scarlet fever
- Whooping cough
- Flu Pandemic

14.2 In the case of a Pandemic Flu see the separate policy – 'Pandemic Flu Policy' for the reporting procedure to be used.

**15. Medical appointments**

15.1 Arrangements covering medical and dentist appointments are covered by the council's Flexible Working Hours Scheme where applicable. Such appointments should not be recorded as sickness absence unless the appointment requires a whole day's absence.

**16. Pregnancy or IVF Related Treatment/Sickness**

16.1 Pregnancy or IVF related treatment/sickness absence should be recorded separately and will not be recorded as sickness absence for monitoring purposes

16.2 An employee who is absent due to a pregnancy or IVF related treatment/illness during the four week period prior to her due date will be required to start her maternity leave, and will be entitled to maternity pay and not sick pay. Odd days of pregnancy-related illness during this period may be disregarded if the employee wishes to defer the start of her maternity leave period, and a risk assessment does not indicate that carrying out work will endanger her pregnancy.



**17. Return to Work Discussions**

- 17.1 When returning to work following sickness absence and regardless of the period of absence (i.e., over half a day or more), the manager/supervisor must arrange to meet with the employee, usually during the first day back or as soon as reasonably practical and undertake a Return to Work Interview. The manager must inform the employee of their Bradford score (see s20). (See Appendix A – Managers Guidelines for Conducting a Return to Work Interview). The Return to Work discussion is crucial in managing attendance. It enables the manager to find out the possible cause of the absence and identify any reasonable adjustments under the Equality Act 2010 where applicable.
- 17.2 The discussion must be carried out sympathetically and in private, maintaining confidentiality. The purpose of the meeting will be to welcome the employee back to work, ensure that there is an accurate record of the absence and appropriate certification and update the employee on work issues. The manager should give assurances of their concern for the employee's welfare, balanced with the manager's concerns about service delivery and the impact on other team members. The manager should also provide the employee with information on the availability of support if required, or refer them to Human Resources.
- 17.3 A record of the meeting must be recorded on the council's Return to Work Interview Form and Record Sheet and promptly passed to HR (Payroll). (See Appendix B – Return to Work Discussion Form and Period Absence Report)
- 17.4 If an employee does not wish to discuss their absence with their manager due to its personal nature, then a meeting with either Human Resources or the Occupational Health Nurse can be arranged. As far as practicably possible, confidentiality will be maintained in these circumstances.

**18. Maintaining Contact**

- 18.1 Where an employee is absent from work due to sickness, it is important that contact is maintained between the manager and the employee both as a duty of care and as part of the Attendance Management Policy. The manager needs to ensure that work is reallocated and service delivery is maintained. Management has a duty of care to maintain contact with the employee. This is to ensure that the individual does not feel isolated, vulnerable or out of touch. The timing of this contact must obviously be judged with sensitivity and it is important that it is not viewed as harassment from the council. A sympathetic approach should be taken and a genuine interest shown in the employee's state of health. Employees should generally be encouraged by their manager to meet with them on council premises for the purpose of discussing their absence and ways in which their recovery and return to work can be assisted. However, on occasions it may be necessary to undertake a pre-arranged home visit. Managers should liaise with Human Resources for advice and should not go unaccompanied.
- 18.2 The employee and manager should maintain regular telephone contact during the early stages of sickness absence and if any employee is absent from work for more than four weeks and is unable to meet with their manager at work, the manager may arrange with the employee to visit them at home with a Human Resources Officer.

18.3 If absences become long-term, regular contact must always be maintained.

## 19. Referrals to Occupational Health

19.1 The role of the Occupational Health Service is to provide advice and guidance to the council and its employees on the impact of an employee's ill health on their ability to undertake their duties and what measures can be put in place to support the employee, where appropriate. It is a condition of service that employees may be required to attend a medical examination should the council consider this necessary. The council's medical advisor will carry out any medical examination either during or following any periods of sickness/injury.

19.2 As part of implementing the Attendance Management Policy and Procedure, managers need to consider if it is appropriate to refer an employee to the Occupational Health Service. For example, a referral might be considered:

- Following a return to work interview;
- Following an accident at work or notifiable disease;
- Where there is possibly an underlying medical condition;
- Where an employee has a Bradford Factor (see s.20) score of at least 150, this could equal 4 absences totaling 10 days or 5 absences totaling 6 days in a rolling 12 month period;
- Where an employee has scored at least 500 – 5 absences totaling 20 days or 7 absences totaling 11 days in a 12 month rolling period;
- Where the cause of absence is given as depression, anxiety, stress, or musculoskeletal disorders (low back pain, joint injuries and repetitive strain injuries of various sorts).

19.3 Employees should be advised of the reason for the referral and the benefits of attending. They are required to sign the referral form as it is better that the employee agrees to be referred to the Occupational Health Service. The employee should also be advised that if they decline to attend, management decisions will be taken based on the information available and the outcome may not be so beneficial to the employee.

19.4 An employee has the right of access to their Occupational Health record.

19.5 Once completed the form should be sent to Human Resources to be submitted to Occupational Health.

Human Resources will forward a copy of the Occupational Health Report to the relevant manager.

19.6 The results of the Occupational Health report should be discussed with the employee as soon as possible. The prime objective should be to facilitate a return to work and consideration should be given to reasonable adjustments being made where necessary.

19.7 If the report from Occupational Health is inconclusive, a specialist consultant's report should be obtained by Human Resources.

19.8 Where the Occupational Health provider is of the opinion that a return to work should occur in the near future, the employee will be asked to attend a

meeting with their manager to discuss a rehabilitation programme and a return to work date.

## 20. The Bradford Factor

- 20.1 The Council uses a tool called the 'Bradford Factor' to monitor sickness levels of all its employees and determine what action may need to be taken. This method of measuring absenteeism levels was first established by the Bradford School of Management back in the 1980's and is now a widely established measurement used across all sectors.
- 20.2 This method takes into account the occurrences of sickness absence and the duration of the absence to ensure a fair and consistent approach is adopted across the organisation and has a greater emphasis on the number of occasions of absence than on the total number of days.
- 20.3 The triggers in the Bradford Factor are designed to encourage and help employees to develop appropriate patterns of attendance and all employees are monitored against them by managers informally through Return to Work Discussions and, where necessary, through the formal stages of the policy.
- 20.4 The Bradford scores are calculated on the same basis as statutory sick pay, i.e., calendar days.

The Bradford formula is based on the following:

Number of absences X number of absences X total number of days = Bradford score' for example: 4 absences; 1 of 4 days and 3 of 2 days = 10 days provides a Bradford score of  $(4 \times 4 \times 10) = 160$  points.

- 20.5 The trigger points will not be used in isolation and other factors will be considered to help support a more comprehensive approach to manage and monitor sickness absence procedures.
- 20.6 By using the Bradford scoring matrix employees are aware of the trigger points and its aim is to ensure that all employees are treated consistently by applying a fair and consistent approach..

## 21. Unacceptable Attendance Levels

### Managing Short Term, Intermittent Absence

- 21.1 Where an employee's attendance becomes unacceptable in line with the procedure, and weighted in accordance with the Bradford Factor scoring system, formal action must be considered by the manager in consultation with HR (see table s21.2).
- An unacceptable pattern of absence;
  - Where an employee has Bradford factor trigger points, the Bradford Factor score of at least 150, this could equal 4 absences totalling 10 days = 160 or 5 absences totalling 6 days = 150;

- Where an employee has scored at least 500 – 5 absences totalling 20 days = 500 or 7 absences totalling 11 days = 539 in a 12 month rolling period;

(Pro rata for part time employees).

Reports highlighting those employees who have met trigger points will be sent to managers as a reminder to take action if they have not already done so. (In cases of absence due to disability, pregnancy, infectious disease or industrial injury, managers must seek advice from Human Resources before taking further action).

21.2 Absence may be regarded as warranting formal action if an employee, over a 12 month rolling period, attains a score of at least 150 – Bradford Factor, the manager must then as a matter of priority:

- Conduct a Return to Work Discussion if not already done so;
- Review the sickness record and reasons for absence and identify any patterns of absence if appropriate (eg, regular Fridays or Mondays etc) and consider actions appropriate at this stage.

At this stage the employee will be informed that they will be required to attend a formal discussion (Stage 1).

Points Score	Consideration Required by Manager
<p><b>Score of at least 150</b></p> <p>(Eg, this could equal 4 absences totalling 10 days, or 5 absences totalling 6 days in a 12 month rolling period)</p>	<p><b>Stage 1</b></p> <p>The manager/Head of Service formally reviews the employee's sickness absence record in consideration of issuing a written warning.</p>
<p><b>Score of at least 500</b></p> <p>(Eg, 5 absences totalling 20 days or 7 absences totalling 11 days in a 12 month rolling period).</p>	<p><b>Stage 2</b></p> <p>Following a Stage 1 warning being issued, the manager/head of Service formally reviews the employee's sickness absence record with regards to issuing final written warning.</p>
<p><b>Score of at least 875</b></p>	<p><b>Stage 3</b></p> <p>Head of Service formally considers sickness absence record, with regards dismissal.</p>

### 21.2.1 Stage 1 Meeting

Should a formal meeting be required, this should be arranged within 5 working days of the employee returning to work. This should be in writing, giving a specific time and place and given at least 48 hours notice to attend the meeting. The employee has the right to be

accompanied by a trade union representative or work colleague at the formal stages.

- The manager will meet the employee to discuss the level of absence, the standards of attendance expected and how the procedure operates;
- Attempt to resolve any underlying causes of sickness absence, particularly if work related, having regard to any risk assessment;
- Take reasonable steps to alleviate any problems which may be contributing to the absence (e.g. personal problems, relationships with work colleagues). Perhaps temporarily vary working arrangements/hours to resolve a domestic problem);
- Give the employee the opportunity to put their own views and explanations across, explaining what efforts they have made to improve their attendance. The employee will be given the opportunity to ask any questions.
- Consider any reasonable adjustments where necessary.
- Assess the need to refer the employee to Occupational Health;
- Explain to the employee that they have been issued with a Stage 1 warning which will remain on file for 6 months and their attendance will be monitored and set a review period of between 1 and 3 months. This will be confirmed in writing and a meeting will be arranged for the end of the review period;
- Explain that if the employee has any more absence during the review period, a further meeting will be arranged and this will be a Formal Review Meeting. **Note:** (If an employee attends work but is then sent home by their manager after working for half of a day or more, then that day will not be counted against their absence record but may be taken in accordance with the Flexible Working Hours arrangements);
- Ensure the employee is aware of the consequences of not achieving sufficient improvement (i.e., moving to Stage 2 of the Procedure.

### 21.2.2 Stage 1 Review Meeting

A letter inviting the employee to the meeting must be sent which will give 5 working days' notice of the meeting by the manager. The employee should also be informed that they may be accompanied at the meeting by their trade union representative or a work colleague and a copy of their absence record should be included with a letter, along with a copy of the Attendance Management Policy and Procedure.

The following matters should be discussed/considered (managers must obtain advice from Human Resources before the meeting):

- A recap of discussions at the Stage 1 Meeting;
- Review of the number of days, occasions and reasons for absence, including any patterns;
- Support to assist the employee to sustain full attendance;
- Referral to Occupational Health;
- Any underlying medical reasons for absence;

- Carry out/review of any relevant risk assessments;
- The effect of absence on service delivery and the rest of the team (morale, workload, temporary cover etc.).

**Note:** The employee must be given the opportunity to discuss any problems or raise any concerns. If they consider they have a disability, advice should be sought from Human Resources.

#### **21.2.3 Where a Stage 1 warning has previously not been issued and the Bradford score is now well in excess of 150**

If an employee has previously reached a Bradford score of more than 150 points but the manager chose not to issue a Stage 1 warning, the manager should still consider a Stage 1 warning following subsequent absences, but **only** as long as the Bradford score is more than 150 points. Managers must consult HR in these circumstances before taking any action.

#### **21.2.4 Stage 1:- Expired Attendance Warnings**

A copy of the first stage written warning should be kept on file, but will lapse after 6 months, subject to satisfactory attendance standards being maintained. Where an employee has previously received two Stage One written warnings within the preceding 2 years but attained the required level of improvement during each of the six month warning periods, they should be formally advised by their manager that further failure to maintain an acceptable level of attendance will automatically be addressed under Stage Two of the procedure.

#### **21.3 Stage 2:- (A score of at least 500 points)**

If an employee who has been given a 1<sup>st</sup> Stage Warning continues to incur absences which lead to a score of at least 500 on the Bradford Scale and the first formal stage 1 meeting fails to rectify the situation, their manager may then decide (in consultation with HR) to call them to a Stage 2 meeting with a Business Manager. The purpose of the meeting is to advise the employee that their attendance is still unsatisfactory and, furthermore, that should they incur further absences totalling a score of at least 875 points, they will be facing Stage 3 of the Attendance Procedure at which point their manager will consider dismissal.

Should a formal meeting be required, the employee will be informed in writing of the requirement to attend a meeting, giving a specific time and place and given at least 5 days notice to attend the meeting. The employee has the right to be accompanied by a trade union representative or work colleague at the formal stages.

At this stage the manager should have carried out an investigation, which will normally be through the previous meetings and obtained any other relevant information where appropriate.

- The manager will inform the employee that their attendance has not improved to the required level and will share the evidence and a break

down of the Bradford Factor score. The manager will discuss with the employee the level of absence, the standards of attendance expected and how the procedure operates;

- Attempt to resolve any underlying causes of sickness absence, particularly if work related, having regard to any risk assessment;
- Take reasonable steps to alleviate any problems which may be contributing to the absence (e.g. personal problems, relationships with work colleagues). Perhaps temporarily vary working arrangements/hours to resolve a domestic problem);
- Give the employee the opportunity to put their own views and explanations across, explaining what efforts they have made to improve their attendance. The employee will be given the opportunity to ask any questions.
- Consider any reasonable adjustments where necessary.
- At this stage the employee should be referred to Occupational Health for an up to date medical assessment;
- At this time consideration will be given as to whether reasonable alternative employment of the same or lower grade is available and whether it is appropriate;
- Where the manager chooses to issue a second written warning at Stage 2 of the attendance procedure, the employee will have a right of appeal to a Head of Service (usually within 10 working days of the warning being issued, but this may be reasonably extended to provide opportunity for trade union representation). The employee will be informed if there no improvement, then a Stage 3 meeting will be held and the employee could be dismissed.

**Where a Stage 2 warning has previously not been issued and the Bradford score is now well in excess of 500.**

Stage 2 can only be considered where a Stage 1 warning has already been issued within the previous 6 months (i.e., still active) **and** where the Bradford point's gap between Stages 1 and 2 is at least 350 (i.e., the same gap/difference as between the regular Stage 1 and 2 considerations).

Managers must consult HR in these circumstances before taking any action.

### **Stage 2: Expired Attendance Warnings**

A copy of this written warning should be kept on file but will lapse after 9 months if no further breaches of attendance standards have occurred.

#### **21.4 Stage 3: Dismissal (A score of at least 875 points)**

After receiving a 2<sup>nd</sup> Stage Warning, if there is insufficient improvement in the employee's attendance, and

- they attain a score of at least 875 on the Bradford Scale, **and**
- following consultation with HR, and having an up to date OH referral (no more than three months old), their Head of Service considers that dismissal may be appropriate,
  - It has not been possible to find alternative employment within a reasonable period of time; or
  - The employee has rejected or refused to transfer to alternative employment.

The employee should accordingly be advised by the Manager in writing that his/her dismissal is being considered.

**PLEASE NOTE:** Up to date medical evidence (not more than 3 months old) must be considered in reaching this decision.

At this stage the employee must be provided with a full record of the absences and warnings that have led to Stage Three dismissal consideration, along with the Manager's written notification.

This notification should invite reasons (in writing) why the employee considers they should not be dismissed (allowing 5 working days from the receipt of notification, for them to make this written response), also inviting the employee to put his/her case forward at a meeting (arranged by their Manager and allowing a minimum notice of 5 working days). At the meeting, the employee may be accompanied by their trade union representative or a work colleague. The purpose of this meeting is to consider the inability or failure of the employee to fulfil their contractual duties by virtue of unacceptable levels of absence and will consider whether the employee's contract of employment should be terminated or not.

The employee should be notified in writing of the following:

- That a formal hearing is being held and the requirement to attend, giving a minimum of 5 working days notice of the hearing, stating location, date, time of hearing and name of officer conducting the hearing;
- The purpose of the hearing and details of the case;
- That a decision may be taken to dismiss;
- The right of representation by their trade union representative work colleague
- The employee will be informed of their right of Appeal against any action taken;

Where possible notification should be handed direct to the employee, delivered by hand or marked recorded delivery to a home address. Copies of any relevant documents should be enclosed.



At the hearing the presenting officer will need to detail the steps taken to improve the attendance including support and assistance given and targets set and not met.

Stage 3 allows for the following penalties to be applied:

- 1) Final written warning or caution with a further review period.
- 2) Dismissal with contractual notice or pay in lieu of notice
  - If appropriate during the notice period redeployment to an alternative post should be considered if one has not been previously identified.
  - Consideration may be given to protection of earnings for a limited period in appropriate cases where redeployment has been identified.

The decision may also be that a penalty is not appropriate and that the employee should have a further review period.

A letter will be sent to the employee confirming the outcome of the hearing. Where recommendation to dismiss is upheld, the employee will be advised accordingly in writing and informed of the last day of service, setting out their appeal rights to the Appeals Committee. Their decision is final.

The employee will have a right of appeal to the Head of Human Resources within 10 working days of the notice being issued (see appendix D). The expiry or otherwise of an employee's payments under the sickness absence scheme will not affect the decision.

**Where a Stage 3 (dismissal) has previously not been issued and the Bradford score is now well in excess of 875.**

A Stage Three (dismissal) can only be considered where a Stage 2 warning has been issued within the last 9 months (i.e., is still active) **and** where the Bradford point's gap between Stages 2 and 3 is at least 375 (i.e., the same gap/difference as between the regular Stage 2 and 3 considerations).

If not, then a Stage 2 warning may be appropriate now (consult with HR). Please also note: the Bradford point's gap between Stages 2 and 3 would usually be 375 (i.e., Stage 2 is considered at 500 points and Stage Three at 875).

Managers must consult HR in these circumstances before taking any action.

## **21.5 Appeal Stage (Appendix D)**

Where the Appeals Committee decides that dismissal is not justified (following discussion with the Head of HR) or where the appeal is upheld, the employee will return to Stage Two of the procedure and the standards appropriate to that stage will apply.

The managerial decision to dismiss at Stage 3 is not a medical one but should be based on, among other things, medical opinion and/or advice regarding capability and fitness for work. The absence of a medical diagnosis or prognosis does not prevent the manager taking action to dismiss an employee; however, without a medical referral an Employment Tribunal could view the dismissal as unfair. Managers should not make medical judgments and are advised to refer cases (prior to decision) to HR and Occupational Health in order to establish if an underlying medical condition does exist. The clear aim, however, is for managers to manage and for occupational health advisors to provide advice or interpretation about the effect of health on work on their behalf, and for the benefit of employees.

### **Expired Attendance Warnings**

**Stage 3:** Where a decision not to dismiss is made, a copy of the written warning should be kept on file but will lapse after 12 months, subject to satisfactory attendance standards being maintained.

## **21.6 Long Term Absence**

Definition of Long Term Absence -

Defined as more than 4 weeks (20 working days) or where there is evidence of continuing or repeated absence due to a chronic or long-term complaint.

Practice around managing such cases may demand a more sensitive approach due to the nature of the sickness. Managers will need to demonstrate reasonableness concerning the treatment of the employee and whether in all the circumstances the employer can be expected to wait for the employee's return to work.

Long Term Absence – single absences of (usually) more than 20 working days. The purpose of contact is to demonstrate concern and support and to ensure that the employee complies with sickness reporting procedures resulting in correct sickness payments being made and to explore options (in consultation with the HR Officer) for helping the employee to return to work using processes such as phased returns, job adjustments or offer of temporary alternative duties. Managers should also discuss any need for referral to Occupational Health (OH) with the employee as and when this becomes appropriate, to provide assistance in facilitating a return to work, and stress the importance of ensuring OH appointments are kept by employees. Occupational Health may be able to provide advice about options for assisting in the employee's return to work.

A manager does not have to wait until the end of a certificate or for a formal attendance warning to become due in order to make a referral. Early referral is often more beneficial to the employee in assisting their return to work. Managers are also encouraged to maintain open communication with the employee, and embark on a system of absence management through regular Case Management discussions, involving OH and the HR Officer. Employees are reminded that they have a duty to engage fully in the attendance management process such as attending OH appointments and attendance meetings. Managers should initially seek advice from an HR Officer regarding their intention to refer and the reason for referral and this should be discussed with the employee.

It is in the best interest of all concerned to try and resolve sickness absence matters early and co-operatively. Early intervention is usually more effective and helpful than later intervention, when achieving a return to work becomes more difficult. Referral to Occupational Health to obtain information and advice is usually made for cases where an employee has been absent for 20 working days or more but attempts to understand and react positively to the absence should already be well established between the manager and employee before this stage is reached. In instances where the absence is stress related, managers are advised to refer to HR at a much earlier stage.

## **21.7 Long Term Prospects**

At an appropriate time .i.e. not later than the 6 month stage of a continuous sickness absence or earlier if there is no foreseeable return to work, the manager (with advice from an HR Officer) shall in normal circumstances make an assessment of the case based on the following considerations:

- Up to date medical evidence or report, not more than 3 months old;
- The nature of the illness and any medical information available;
- The length of absence to date and what is known about the likelihood and timing of any return to work;
- The need to cover the work for which the employee is engaged to do;
- The feasibility of continuing with any temporary arrangement;
- The employee's length of service;
- Can the service cope with the level of disruption caused by the employee's sickness absence and, if so, then for how much longer? Any action determined by the manager must be well considered and justifiable;
- Any other relevant circumstances, including adjustments under the terms of the Equality Act.

Following this review, the manager must discuss their findings with the relevant HR Officer in order to explore available options with a view to progressing the case, including termination where appropriate.

On receiving the Occupational Health report, advice should be sought from Human Resources and a Formal Review meeting should be arranged to discuss the recommendations/advice received (even if no specific medical advice can be given at that time). At the meeting the manager should discuss measures that might facilitate an early return to work, eg, redeployment, reduced duties whilst rehabilitating, reduced hours of work for a maximum of 4 weeks on returning to work, unless otherwise agreed with Occupational Health.

## **21.8 Formal Meeting**

21.8.1 If there is no reasonable prospect of a return to work within the foreseeable future, the manager should consider whether it is reasonable to invite the employee to a Formal Meeting.

21.8.2 In all cases, a target date for return to work should be set and the employee advised of the consequences if they are unable to return by that date, i.e. consideration may have to be given to temporary/permanent redeployment or temporary/permanent

reasonable adjustments to their job or a rehabilitation programme identified to enable the employee to return to work. The council cannot create jobs where there are no vacancies. Where the hours of work are reduced as part of the rehabilitation programme, this would normally be on full pay for a limited period of up to 4 weeks. If the normal hours of work are reduced over a longer period, a reduction in salary may be made and the employee will be informed.

21.8.3 Upon return to work the employee will be monitored in accordance with the appropriate stage of the policy.

21.8.4 After 12 weeks of absence a further review should be undertaken which should include the advice from Occupational Health and the HR Officer. The manager should meet with the employee to discuss their continued employment and the options available. These include:

- Return to work with reasonable adjustments;
- Phased return to work programme
- Redeployment options

A letter should be sent to the employee to confirm the outcome of the meeting.

21.8.5 If the employee does not return to work after 6 months of absence or where redeployment is not appropriate or where it has not been possible to redeploy the person and there is no prospect of a return to work within a reasonable timescale and they do not fulfill the ill-health retirement criteria or suffer high levels of long term absence that cannot be sustained by the service consideration will be given to terminating employment on the grounds of incapability under stage 3 of the Procedure. The manager should discuss the appropriate stage of the procedure with Human Resources.

The following should be considered:

- Up to date medical evidence or report not more than 3 months old;
- The nature of the illness and any medical information available;
- The length of absence to date and what is known about the likelihood and timing of any return to work of the absent employee;
- The need to cover the work of the absent employee;
- The feasibility of continuing with any temporary arrangements;
- Can the service cope with the level of disruption caused by the absence? How much longer? Any action by the manager must be justifiable;
- Any reasonable adjustments considered under the Equality Act.

Following this review, the manager must discuss their findings with HR.

Application of the policy must be consistent across the workforce.

Employees subject to length of service may receive a sick pay benefit of up to 6 months at full pay followed by 6 months at half pay, this is dependent on length of service. This does not mean that action under the Attendance Management Procedure should not be considered during these periods.

The stage 3 procedure on page 15 of the policy will apply.

## **22. Alternative Employment**

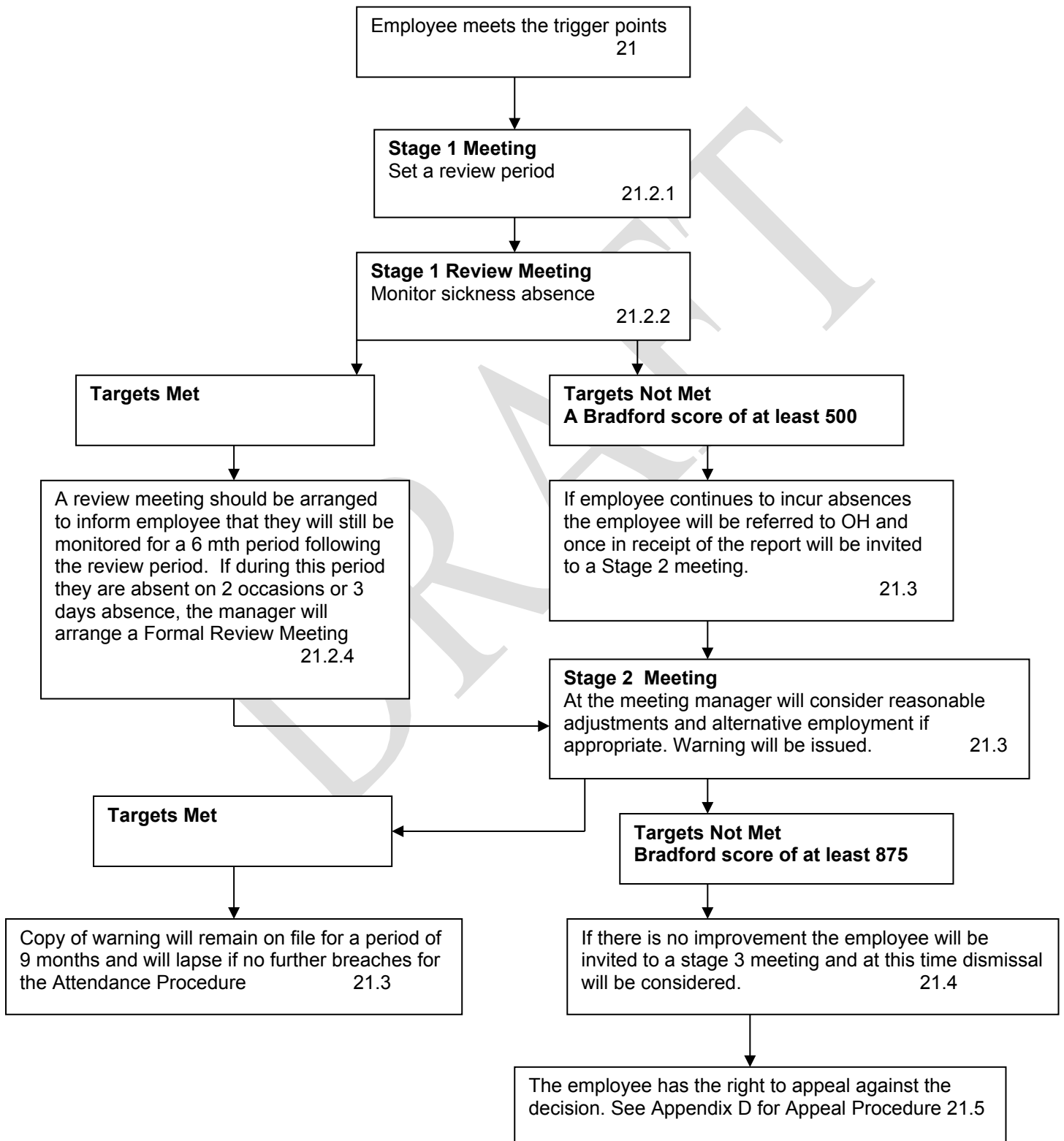
- 22.1 It may be appropriate in certain circumstances to offer the employee alternative employment within the authority. If this is appropriate the Human Resources department will assist the Manager and employee in finding alternative employment. Alternative work cannot be guaranteed, as vacancies cannot be created.
- 22.2 Where a suitable vacancy does exist, the affected employee will receive prior consideration over other candidates, however the appointment will be on the basis of the employee meeting the requirements of the post. A trial period may be required, during which training and support will be given; dependent upon the particular individual circumstances of the case and would usually be for a minimum of 4 weeks, maximum 3 months.
- 22.3 Redeployment will initially be attempted to a post at the same grade as the employee's substantive post. However, this may not always be appropriate or possible. Where post(s) offered are at a lower grade consideration may be given to protection of earnings for a limited period in appropriate cases. The offer will be made in writing and the employee should be given time to consider the offer and be advised to discuss it with their representative.
- 22.4 Human Resources staff will be available to discuss implications on pensions and salary.
- 22.5 These alternatives are available for consideration at any stage of this process, up to and including the Stage 3 hearing and during any notice period.

## **23. Monitoring of the Policy**

- 22.1 Human Resources in conjunction with the recognised Trade Unions and the Employees Consultative Committee and the Staffing Committee will keep the monitoring of sickness absence and the operation of this policy under review.

## Attendance Management Procedure

### Managing Short Term, Intermittent Absence



### Managing Long Term Absence

