



# **ATTENDANCE MANAGEMENT POLICY AND PROCEDURE**

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## Information about this Policy

Managers should ensure that they and their employees are familiar with the latest version of the Attendance Management Policy and Procedure, along with the supporting Guidance and Toolkit which provide additional detail and template documentation to assist managers in the application of this policy.

Managers should refer to these sources of information in the first instance when addressing attendance management issues. To access further advice and information about specific cases, managers should contact the HR department.

## Scope

This document applies to all employees of Newcastle Under Lyme Borough Council except for:

- Employees in their probation period, during which the Probation Policy and Procedure will apply;
- Workers engaged under a casual contract for services.

## Confidentiality

Sickness absence and health information are highly sensitive and personal issues.

Sickness absence data held by the Council falls into the General Data Protection Regulations (GDPR) definition of 'sensitive personal data', and any monitoring of sickness absence will therefore need to comply with the General Data Protection Regulation (GDPR) outlined within this legislation.

When communicating electronically regarding any sickness absence matter, the Council's Security Classification scheme must be observed. Appropriate technical measures to protect information being sent outside of the authority must also be employed.

## Purpose

The Council expects all of its employees to attend work and to achieve full attendance unless genuinely they are unable to do so.

Therefore the purpose of the Attendance Management Policy and Procedure is to provide a framework that managers can use to support employees to improve, achieve and maintain a high standard of attendance expected by the Council. Where an employee is absent from work, it is intended to support them to return to work and maintain their attendance.

## Reporting Absence and Maintaining Contact

### Reporting Absence

Managers must ensure that employees are aware of absence reporting procedures including any service-specific reporting and maintaining contact procedures that may apply.

Employees must telephone their manager on the first day of absence, before their start time, if they are unable to attend work for any reason. This must be done personally unless the employee is prevented from doing so. If the employee's manager or designated point of

contact is not available, the employee should speak to another manager to report their absence. Text messages, emails or voicemails should only be used where a manager or other designated point of contact is not available to take the call. In these circumstances, the manager should contact the employee as soon as possible in response to their message.

The following details will be established:

- The reason for the absence.
- The day on which the employee first became unable to work (which may be a non-working day).
- The expected duration of the absence.
- Any appointments that the employee may need to attend to support their recovery.
- Any other action they could take to assist their recovery such as visiting a pharmacist.
- Whether there are any urgent work-related activities to be covered;
- Details of how they can be contacted if necessary, especially where the employee is staying at a different address during their absence.

If the absence is likely to last for more than one day, the employee will be expected to contact their manager or designated point of contact, or to be available to be contacted, at a time to be agreed. The frequency of the reporting arrangements will be appropriate to the circumstances.

In certain circumstances, an employee may not be fit enough to attend work but may still feel able to work remotely. In such circumstances, and where it is suitable for the service and the type of work done by the employee, the employee may ask that agile working arrangements are considered and agreed as a means of reducing the need for the employee to take sick leave. The period of agile working will be reviewed on a regular basis and should not be considered a permanent solution.

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). If the employee has been given permission to leave work then they will be recorded as sick for the hours of work they are absent.

### **Failure to Report an Absence**

If the employee fails to report an absence in accordance with this policy without good reason, then the absence will be deemed to be 'unauthorised absence' and may be addressed as a matter of potential misconduct. The employee will not be paid for the period of the unauthorised absence, and this should be confirmed in writing to the employee by the manager.

### **Maintaining Contact during Sickness Absence**

It is important for regular contact to be maintained during any period of absence in order to discuss appropriate support and assistance. Managers should take reasonable steps to initiate and maintain communication with employees who are absent. The extent, frequency, format and method of contact will need to be judged on a case by case basis. A brief record of all contact should be made and retained by the manager.

Although communication is a two way responsibility between the manager and the employee, in some cases, because of the nature of the illness, it may be necessary to agree that contact with the employee will be made indirectly through a third party (e.g. trade union representative, partner, or close relative).

However it is managed, the important principle is that some reasonable level of contact with the employee is maintained. Failure by either party to engage in this process may, in some circumstances, lead to disciplinary action being taken.

## Return to Work Interview

The Return to Work Interview plays a vital role in helping employees to achieve and maintain satisfactory attendance levels. Therefore it is mandatory for managers to ensure that a Return to Work Interview is completed with the employee as soon as possible following the employee's return from every period of sickness absence. This interview should ideally be completed on the employee's first day back from sick leave to ensure that they are fit to undertake their duties but should be no later than 5 working days.

If the employee's manager is/will be absent, responsibility for carrying out the Return to Work Interview should be taken up by the manager's manager or another appropriate manager. A record of the Return to Work Interview must be kept and the absence recorded as detailed in the Attendance Management Guidance.

If there are indications that the employee's attendance levels are likely to become a cause for concern, the manager should remind the employee during the Return to Work Interview that further absences may lead to attendance management procedures being progressed.

## Support Plans

Support Plans are used to document actions to be taken, by the employee and/or the manager, to assist the employee in attaining satisfactory levels of attendance and, where appropriate, to help the employee to manage their health and wellbeing. A Support Plan may be used at any time, including:

- While the employee is at work, regardless of whether they have been absent due to sickness;
- During a period of sickness absence;
- Following a period of absence;
- Following a Stage 1 or Stage 2 Attendance Meeting or Stage 3 Attendance Hearing.

A Support Plan will cover a period of 4 to 8 weeks, depending on the circumstances. The duration of a Support Plan may be extended, where considered appropriate. Alternatively, it may be necessary to implement an amended Support Plan. The manager and employee may discuss and agree, where possible, amendments to the Support Plan at any time.

Managers are recommended to put a Support Plan in place at an early stage unless the circumstances indicate that a plan will not assist an employee in achieving satisfactory attendance. In such circumstances, it is still important that the attendance management procedure is followed as regular or ongoing periods of absence are unsustainable.

## Supportive Measures

Managers and employees must consider what options may be available to support the employee in improving their attendance levels and/or returning to work in line with the service needs. These may include, but are not limited to:

- a) **Reasonable adjustments or changes to reasonable adjustments** to support an employee with a disability. The Council's Occupational Health provider or another

appropriate medical professional may be able to offer advice on reasonable adjustments.

- b) Seeking up-to-date **medical information** and advice.
- c) **Referral to the Counselling Service** to access counselling support.
- d) **Phased return to work** to support an employee's return to work following an absence. The phased return to work will only be used where the reasons for the absence has had a substantial effect on the employee, but they are likely to be able to return to their normal hours and duties by the end of the phased return. A phased return will usually occur over a period of 1 to 4 weeks, although it may last up to 6 weeks when appropriate. In exceptional circumstances, a phased return may be extended if recommended by medical advice (e.g. Occupational Health report, fit note). In certain circumstances, it may be appropriate to use a phased 'return to work' even if the employee has not been absent from work in order to prevent them from going off sick. Advice is available from the HR Department.

Employees will be paid their full basic pay during the phased return.

- e) **Agile Working arrangements** to support the employee's work/life balance. Arrangements will only be implemented if they are suitable for the service or team as well as the employee.
- f) **Reduction in hours or change of working patterns**, whether on a temporary or indefinite basis. These must be mutually agreed and subject to the needs of the service or team.
- g) **Redeployment status** to obtain alternative work (in cases of ill health or disability related capability). If appointed to another post, the employee will not be entitled to pay protection or additional travel expenses.
- h) **Ill-health retirement**, if the employee is a member of the pension scheme and likely to be eligible following medical assessment.

The effectiveness of any supportive measures and/or reasonable adjustments should be reviewed on a regular basis, in conjunction with Support Plans. These may be adjusted or removed, following discussion with the employee, if they cease to be appropriate.

## Medical Advice

When meeting with an employee, the manager should gather as much information as possible about the employee's state of health and any measures that the employee feels could support them. In some circumstances, it may be appropriate to seek additional medical advice from the Council's Occupational Health provider. Before making a referral, the manager should discuss this with the employee to determine whether the referral is likely to result in additional information being received.

Employees are required to make every effort to attend appointments that have been arranged. Where an employee fails to attend or fails to provide the required notice to cancel an appointment without an acceptable reason, the cost of the appointment (up to £100) may be passed onto the employee.

Medical advice may be sought at any stage and may be requested more than once if considered appropriate, usually where there has been a change in an employee's condition.

Managers should discuss any medical reports received with the employee promptly following receipt, including any intended actions that will be taken as a result of the report.

## Managing Stress-Related Absences

Where a manager is aware of, or suspects that, an employee's sickness absence may be fully or partially linked to a work-related or personal cause (e.g. stress, issues concerning working environments, team relationships, family problems, etc.), managers should take appropriate action to identify and, where relevant, seek to address the cause, irrespective of whether the employee is absent from work. This should be carried out in addition to, and in conjunction with, any steps under the attendance management process. In these cases, managers should not wait until the employee has met a sickness absence trigger before taking action.

The manager should discuss the cause with the employee and, irrespective of whether or not it is work-related, should identify, using a Support Plan, any measures or actions which could assist them to deal with their situation and improve their attendance. This approach should also be followed in circumstances where a manager is aware of, or suspects that, an employee is suffering from stress but has not been absent from work.

Managers and employees may refer to the Counselling Service at any time for further assistance and support in dealing with issues, regardless of the cause.

## Certification of Sickness Absence

The employee is required to complete and submit the relevant section of the self-certification form to their manager if they have been absent due to sickness for up to 7 calendar days. If their absence extends to 8 calendar days or more, they are required to obtain medical certification, usually known as 'Fit Notes' or 'Statements of Fitness for Work', from their GP or a hospital doctor to cover the entire period of absence beyond the first 7 calendar days. The employee is required to submit this to their manager without delay.

While it is accepted that the employee may not be able to see their GP to request medical certification on or before the 8<sup>th</sup> day of sickness absence, they must make all reasonable attempts to do so as soon as possible. The employee may be asked to provide evidence of appointments and attempts to obtain medical certification.

In some cases, the employee may be asked to obtain medical certification for a period of sickness absence lasting up to 7 calendar days, and they may be charged for this service. The Council will reimburse the employee for this charge, and the employee will need to provide copies of invoices and/or receipts to support the claim along with the required medical certification.

### **Failure to Supply Medical Certification**

If the employee fails to submit medical certificates in accordance with this policy without good reason, then the absence will be deemed to be 'unauthorised absence' and may be addressed as a matter of potential misconduct. The employee will not be paid for the period of the unauthorised absence, and this should be confirmed in writing to the employee by their manager.

## Recording and Monitoring of Employee Absence

Managers are responsible for ensuring that sickness absence information, including medical certificates and Return to Work Interview details and documentation, are recorded as

detailed in the Attendance Management Guidance. This must be done on a timely basis ensuring that all details recorded are accurate, in particular dates of and reasons for absence.

Managers will use information about sickness absence to promptly identify any trends that may need to be addressed or individual cases in which further action is required.

## Sickness Absence Triggers

It is important that managers act in a timely manner in regard to attendance issues as regular or ongoing periods of absence are unsustainable.

The following sickness absence triggers will prompt managers to initiate attendance management procedures:

- 8 working days absence in any 12 month rolling period (pro-rata accordingly);
- 4 or more occasions in any 12 month rolling period;
- A long term sickness of one absence of 4 weeks or more;
- A pattern of absence, e.g. regular absences on Fridays or Mondays, or linked to annual leave;
- Regular repetition of the same or similar type of illness;
- Any pattern of absence which reasonably gives the manager cause for concern.

Pregnancy-related sickness absence will be discounted for the purposes of deciding whether an employee has met an absence trigger point.

For stress-related absences, managers should, where possible, seek to take prompt action to attempt to address the cause, irrespective of whether or not the employee has met a sickness absence trigger.

Where managers anticipate concerns about an employee's absence levels, they should not wait until a sickness absence trigger has been met to initiate informal discussions with the employee with the intention of proactively supporting the employee's ability to attend work and carry out their duties, if it is possible to do so. This is especially important if there are signs that the employee may have a disability or long term condition, or where sickness absences are related to the employee's pregnancy. A record of these informal discussions should be taken by the manager.

In exceptional circumstances, sickness absence triggers may be modified on an individual basis, and this will be confirmed to the employee in writing. Managers should contact the HR Department for advice before taking this course of action.

### **Management of Cases involving Disabilities and Long Term Conditions**

Managers are expected to approach these cases in a positive and supportive manner, with a view to implementing reasonable adjustments and supportive measures to assist the employee's return to work wherever possible.

### **Resolution of Long Term Sickness Absence Cases**

It is expected that the majority of long term sickness absence cases will be resolved within 12 months.

## Escalation to Stage 3 Attendance Hearing

The procedure may be escalated to a Stage 3 Attendance Hearing at any time if:



- The available evidence and up to date medical information indicate that the employee is unlikely to be able to return to work within a reasonable period of time. In these cases, the manager must have fully explored and implemented reasonable adjustments where possible prior to proceeding to a Stage 3 Attendance Hearing.

Or:

- It is apparent that the employee is unwilling or unable to take steps to enable them to make the required improvements to their attendance.

The employee must be forewarned that escalation to a Stage 3 Attendance Hearing is being considered prior to taking this decision. Managers should contact a member of the HR team for advice before proceeding.

## Procedure for Managing Sickness Absence

### STAGE 1 ATTENDANCE MEETING

If an employee's absence levels give cause for concern, the manager will invite the employee to a Stage 1 Attendance Meeting whereby the employee could be issued with a First Written Warning. The employee may be accompanied at this stage by a work colleague or Trade Union representative.

The manager will inform the employee in writing of the outcome of the Stage 1 Attendance Meeting within 5 working days.

Managers should seek advice by contacting the HR Department where an employee has been, or there are indications that the employee will be absent for 3 months or more.

### Support Plan

The manager should prepare a draft Support Plan (covering a period of 4 to 8 weeks) for discussion and agreement at the Stage 1 Attendance Meeting. This may be based on an existing Support Plan, if one is already in place. If a Support Plan is not finalised at the Stage 1 Attendance Meeting, the manager should provide a copy to the employee as soon as possible following the meeting.

### Monitoring Period and Reviews

The employee's attendance levels will continue to be monitored for a period of 6 months from the end of the support plan period. If the employee's absence levels during the monitoring period continue to be of concern, the matter will be addressed at a Stage 2 Attendance Meeting, or be escalated to a Stage 3 Attendance Hearing if the conditions outlined above are met.

Review meetings will be held as necessary during the 6-month monitoring period, especially where reasonable adjustments have been agreed and/or a Support Plan is in place, but should not normally occur less frequently than on a quarterly basis.

### STAGE 2 ATTENDANCE MEETING

Where the employee's absence levels continue to be of concern, the manager will invite the employee to a Stage 2 Attendance Meeting whereby the employee could be issued with a Final Written Warning.

The employee will be given at least 5 working days' notice of the Stage 2 Attendance Meeting in writing, and the employee will have the right to be accompanied by a work colleague or a Trade Union representative.

The manager will inform the employee in writing of the outcome of the Stage 2 Attendance Meeting within 5 working days.

### **Support Plan**

The manager should prepare a draft Support Plan (covering a period of 4 to 8 weeks) for discussion and agreement at the Stage 2 Attendance Meeting. This may be based on an existing Support Plan, if one is already in place. If a Support Plan is not finalised at the Stage 2 Attendance Meeting, the manager should provide a copy to the employee as soon as possible following the meeting.

### **Monitoring Period and Reviews**

The employee's attendance levels will continue to be monitored for a period of 9 months from the end of the support plan period. If the employee's absence levels during the monitoring period continue to be of concern, the matter will be addressed at a Stage 3 Attendance Hearing.

Review meetings will be held as necessary during the 9-month monitoring period, especially where reasonable adjustments have been agreed and/or a Support Plan is in place, but should not normally occur less frequently than on a quarterly basis.

### **STAGE 3 - ATTENDANCE HEARING**

Where the employee's absence levels continue to be of concern, and as a result dismissal is being considered, the manager will make arrangements for a Stage 3 Attendance Hearing to take place and will invite the employee to attend. The manager will also arrange a note-taker. In cases of long term sickness absence, managers will take reasonable steps to facilitate the employee's attendance in person.

If the employee's sickness absences are connected to a disability or long term condition, the manager must have obtained up to date medical information, and have considered and implemented any reasonable adjustments before proceeding to a Stage 3 Attendance Hearing.

The Stage 3 Attendance Hearing will be heard by a Business Manager, Head of Service or Executive Director (Decision Maker) who has had no prior involvement in the employee's case and the Head of HR.

The employee will be given at least 5 working days' notice in writing of the Stage 3 Attendance Hearing. The employee must be made aware of the evidence that will be considered at the Stage 3 Attendance Hearing, and provided with copies in advance if they are not already in possession of them. The employee may also submit evidence for consideration, and where this is the case the Decision Maker must receive it no later than 2 working days before the Stage 3 Attendance Hearing. The consideration of any documentation submitted after that date will be at the discretion of the Decision Maker and Head of HR.

Having carefully considered the information presented, the Decision Maker and Head of HR may find that:

1. It is appropriate in the circumstances to terminate employment.
2. It is appropriate to provide a further period of time in order for the employee to improve their attendance or return to work.
3. The employee's attendance is acceptable and that no further action should be taken.

N.B: It is not necessary for sick pay to have been exhausted before dismissal can take place.

Where the Decision Maker and Head of HR determines that the employee should be provided with a further period of time monitoring, they may also make recommendations to the manager regarding any supportive measures which it considers should be included in the Support Plan. If the employee's attendance remains a cause for concern after that further period of time, the manager will arrange for the Stage 3 Attendance Hearing to be reconvened. Such a hearing will usually be with the same Chair and Head of HR, unless that is not possible or would cause unreasonable delay.

Where possible, the employee will be notified of the decision on the day of the hearing. In any event, a letter confirming the decision will be sent to the employee within 5 working days of it being reached.

### **Support Plan**

If the employee has not been dismissed, or any decision to dismiss has been overturned following appeal, the manager and employee will meet to draw up a Support Plan as soon as possible following the meeting, or will meet to review any existing Support Plan, if one is already in place.

### **Monitoring Period and Reviews**

If the employee has not been dismissed, or any decision to dismiss has been overturned following appeal, their attendance levels will continue to be monitored for a period of 12 months following the Stage 3 Attendance Hearing. If the employee's absence levels during the 12-month monitoring period continue to be of concern, the case will be referred to a further Stage 3 Attendance Hearing. Review meetings will be held as necessary during the monitoring period, but should not normally occur less frequently than on a quarterly basis.

### **Failure to Attend**

Where the employee fails to attend a Stage 3 Attendance Hearing or reconvened Stage 3 Attendance Hearing without an acceptable reason, the hearing may go ahead in their absence.

## **Right to Appeal**

An employee who is dismissed from the Council has the right to appeal. The appeal must be submitted by the employee within 5 working days of receiving the hearing outcome letter. The employee should submit their grounds of appeal in writing to the Head of Human Resources outlining their grounds for appeal which **must** fall into one of the categories below:

- that the Attendance Management procedure has not been properly followed;
- that all the evidence was not considered at the hearing;
- that the employee has been unfairly treated due to the Officer conducting the hearing showing unfair bias against an employee;
- new evidence

The appeal letter should include:

- any supporting documentation;
- details of the name of the Trade Union representative or work colleague who will be accompanying
- Any witnesses that they wish to call

The employee has the right to be accompanied by a Trade Union Representative or a work colleague.

The appeal will be heard by a Sub-Committee established by the Council's Staffing Committee, supported by a representative to give legal advice. The sub-committee's decision shall be final and there is no further right to appeal. The appeal hearing will be recorded for clarity and consistency.

The purpose of the appeal hearing will normally be to consider the employees grounds for appealing against the 'penalty' issued and whether or not the decision should be amended. It is important to note that the appeal is not an opportunity to rehear the case. It should only consider the grounds of the appeal stated in writing at the time of the notification.

The employee will be given notice in writing at least 10 working days in advance of the time and place of the appeal hearing. They will be allowed to be represented by a trade union representative or work colleague and will be entitled to call witnesses and produce documents (subject to this being part of their grounds for appeal) relevant to their defence at the hearing. Please note it is the responsibility of the employee or their representative to invite witnesses to any appeal hearing.

An 'evidence pack' will be submitted to the Sub-Committee, employee (2 copies) and the manager presenting the case at 5 working days before the appeal hearing. It is the responsibility of the employee to provide their trade union representative or work colleague with a copy of this 'evidence pack' prior to the hearing.

## Appeal Process

The process for the appeal hearing will be as follows:

### Introduction

- a) The Chair conducting the hearing will explain that the hearing is being conducted as part of the Council's formal Attendance Management Procedure, explain the purpose of the hearing and how it will be conducted.
- b) All parties present at the appeal hearing will introduce themselves and confirm their respective roles in the appeal hearing.

### Employee's Case

- c) The Chair will invite the employee to state their case, i.e. the grounds for the appeal against the decision/penalty issued, determine what outcome they are seeking and why. The employee may do this personally or the employee's trade union representative/work colleague may do this on the employee's behalf.
- d) The manager, who may be supported by a representative from the HR team, will be invited to ask questions of the employee. The employee's representative must not answer any questions on behalf of the employee.
- e) The Sub-Committee may ask questions of the employee. The employee's representative must not answer any questions on behalf of the employee.

### Employee Witnesses

If the employee has requested for any witnesses to attend this appeal hearing then they will be invited into the hearing on an individual basis and items (f) to (j) will be repeated as appropriate.

- f) The employee (or their representative) will invite their witness into the appeal hearing.
- g) The employee (or their representative) will ask questions to their witness.
- h) The manager will be invited to ask questions to the witness.
- i) The Sub-Committee will ask questions to the witness.
- j) The witness will be excused from the hearing process.

#### Manager's Case

- k) The Chair will invite the manager to state their case against the employee's grounds for appeal.
- l) The employee (or their representative) will be invited to ask questions of the manager.
- m) The Sub-Committee may ask questions of the manager.

#### Manager Witnesses

If the manager has requested for any witnesses to attend this appeal hearing then they will be invited into the hearing on an individual basis and items (n) to (r) will be repeated as appropriate.

- n) The manager will invite their witness into the appeal hearing.
- o) The manager will ask questions to their witness.
- p) The employee (or their representative) will be invited to ask questions to the witness.
- q) The Sub-Committee will ask questions to the witness.
- r) The witness will be excused from the hearing process.

#### Deliberation / Decision

- s) The Chair will request for the employee, manager and their representatives to leave the hearing
- t) The Sub-Committee and a representative from Legal Services will deliberate in private, only recalling all parties (excluding witnesses) to clear points of uncertainty on evidence already given. For transparency purposes, if recall is necessary both parties will be invited to return even if the point of clarity is regarding the other party.
- u) When a decision has been reached, all parties (excluding witnesses) will be invited back to the hearing to hear the decision.

#### Outcome

- v) Written confirmation of the Sub-Committee's decision will be issued to the employee within 5 working days. There is no further right of appeal.

Please note the Chair may adjourn the appeal hearing proceedings if it appears necessary or desirable to do so, including for the purpose of gathering further information.

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