

Sickness Absence Management Policy and Procedure

Conducting a Hearing

1. The Hearing Officer, who will be the Service Head, will:
 - ❑ direct and control the conduct of the hearing with fairness and impartiality;
 - ❑ consider all the information and evidence provided by the employee and manager;
 - ❑ determine whether the employee should be dismissed or whether a further period of monitoring and support should be put in place.
2. A member of the HR Team will attend the Hearing to provide support and guidance to the Hearing Officer.

The employee has a statutory right to be accompanied at the Hearing by either a Trade Union representative or a work colleague.

The presenting manager may be accompanied by a member of the HR Team or another manager.
3. The Hearing Officer will ask the employee to confirm that they understand;
 - ❑ the nature of and reason for the Hearing;
 - ❑ the right to be accompanied at the Hearing.
4. The Hearing Officer will explain the format of the hearing, which will normally be as follows:
 - ❑ the Hearing Officer and accompanying HR adviser may ask questions of either side throughout the Hearing;
 - ❑ the management case will be presented first;
 - ❑ following presentation of the management case the employee (and representative) may question the management side;
 - ❑ the employee (and representative) will present their case;
 - ❑ following presentation of the employee case the management side may question the employee;
 - ❑ both sides will be asked to summarise the main points of their case; management side first and the employee (and representative) second;
 - ❑ the Hearing will be adjourned and the Hearing Officer will make their decision.
5. The management side will present the case, detailing how the employee has reached the final stage of the Sickness Absence Management Policy and Procedure. This will include:

- a summary of all absences and the separate stages of the process that have been reached to get to the final stage;
 - any support offered, including practical adjustments, targets set, training, and any options for redeployment and so on;
 - any Occupational Health advice received.
6. The employee and representative will present their case, providing an explanation of their reasons for absence and any mitigating factors that they wish the Hearing Officer to consider.
7. Once the Hearing Officer and HR adviser have completed their questions the Hearing Officer will ask both sides to summarise their cases in the following order:
- management side
 - employee side
8. The Hearing Officer will adjourn the Hearing and will ask both parties to withdraw. If possible, additional rooms should be made available for the separate parties to withdraw to whilst the Hearing Officer is considering their decision.
9. The Hearing Officer may, if they wish, ask the Hearing to be temporarily reconvened to ask further questions, before adjourning again.
10. The Hearing Officer will consider all the facts of the case and, in making a decision, will balance both the needs of the employee and the requirement for effective delivery of Council services.

When reaching a decision about whether or not to terminate employment, the Hearing Officer will consider issues such as:

- the operational needs of the service and the need for the work to be undertaken;
- the impact of the employee's absence and ill health on other employees and service delivery;
- the employee's absence record;
- financial and cost implications;
- representations made by the employee and their representative;
- what actions have been taken to attempt to enable the employee to continue in employment;
- what, if any, consideration has been given to alternative duties on either a temporary or permanent basis;
- medical advice received.

The above list is not exhaustive and the weight attached to each issue will depend on the circumstances of the case.

11. In reaching a decision to terminate employment, the Hearing Officer must be satisfied that:
- the manager has followed the steps outlined in the Sickness Absence Management Policy and Procedure, and

- reasonable support has been offered to the employee to either;
 - i) improve their attendance, or
 - ii) return to work.
- 12. In reaching a decision to retain the employee in work, the Hearing Officer must:
 - identify a period during which the employee's absence will be reviewed;
 - confirm any conditions placed on either management or employee;
- 13. Once the Hearing Officer has had opportunity to consider the case the Hearing will be reconvened. Both the management side and the employee's side will return to the Hearing to hear the outcome.
- 14. If the Hearing Officer is not able to make a decision on the day of the Hearing, the Hearing Officer must inform both sides that they will be advised of the decision in writing within 5 working days.
- 15. If the Hearing Officer makes their decision, on the day of the hearing, they will verbally advise all parties of the decision. The Hearing Officer will confirm that the decision will be provided in writing within 5 working days.
- 16. If the decision is taken to terminate employment the written confirmation must include the following:
 - the date and time of the Hearing;
 - confirmation of those present;
 - the decision to terminate the employment;
 - confirmation of the notice period to be served and the last day of service;
 - details of why the Hearing Officer reached the decision;
 - the employee's right of appeal, which must be in writing to the HR Manager within 10 working days of receipt of written notice of termination, stating their grounds for appeal.
- 17. If a decision is taken not to terminate employment the written confirmation must include:
 - the date and time of the Hearing;
 - confirmation of those present;
 - the decision to retain the employee;
 - details of the future review period(s);
 - any expectations placed on the employee, e.g., the achievement of a specific absence target, the date by which the employee is expected to have returned to work and so on;
 - the implications of the employee failing to meet those expectations;

- any expectations placed upon the manager, e.g., details of further review meetings, the provision of additional support, and so on.