

Sickness Absence Management Policy and Procedure

1. Scope

The Council's Sickness Absence Management Policy and Procedure (SAMP) applies to all employees and forms part of the contract of employment. The exception to this is those individuals who are under probation, for whom the full procedural arrangements do not apply. It does not apply to casual workers.

This document should be read in conjunction with the SAMP Guidance Notes.

This policy and the payment of sick pay exist to support our employees when they are sick. A number of separate arrangements are in place to support employees should they require time away from work due to personal matters, including supporting dependants who are unwell.

2. Definitions

The following definitions are used in this policy:

Manager/Line Manager = refers to anyone within the Council who has line management responsibility including first line supervisors

Return to Work (RTW) = the date of the employee's return to work

Absence Indicator Points (AIP) = these accrue during any period of sickness absence and are calculated using the Bradford Factor Index

Trigger Point (TP) = when the formal process is triggered

Attendance Improvement Target (AIT) = the target that the employee is set to improve their attendance

Target Review Period (TRP) = the period during which an employee will be set an Attendance Improvement Target

Long Term Absence (LTA) = is defined as 4 weeks / 20 working days (pro-rated for part time staff)

Occupational Health (OH) = the Council's Occupational Health provider

3. Objectives and Principles

Lancaster City Council values the contribution of its employees in the delivery and maintenance of quality services to the community. Whilst recognising that employees may occasionally be prevented from attending work through ill health, the Council has a duty to maintain service delivery, provide value for money and minimise disruption. The Council is, therefore, committed to

managing attendance and sickness absence and believes that it is the responsibility of line managers and employees, with the support of HR and trade unions, to work together to promote and improve attendance.

The Council recognises that the majority of employees have good attendance levels. However, there are a minority of employees who have an unacceptable level of absence, which has a negative impact on colleagues who have to cover their absences. The Sickness Absence Management Policy and Procedure has been developed to ensure that there is a consistent, supportive and fair approach to dealing with absence, which applies to all employees and all types of absence. The SAMP sets out clear parameters and expectations that all employees are required to adhere to.

Further information can be found on the HR pages of ELSIE, via line managers or from HR.

The following principles apply to the Council's procedures for dealing with sickness absence:

- ❑ Good attendance is valued and all opportunities should be taken to acknowledge and recognise such attendance.
- ❑ All employees will be treated consistently and it is a requirement that sickness absence procedures will be fairly applied by all managers across the Council.
- ❑ Open communication between managers and employees is encouraged at all times, as this often allows matters to be resolved at an early point.
- ❑ Employees are encouraged to seek help with any problems they might have, which are resulting in non-attendance at work. The Council will aim to assist where practicable.
- ❑ The Council will aim to support those suffering the effects of ill health and will take reasonable steps to assist staff back to work.
- ❑ The Council will at all times be aware of its legislative responsibilities.
- ❑ The management of sickness absence cases will be conducted with respect for confidentiality and in accordance with the requirements of the Data Protection Act and Access to Medical Records Act 1988.

4. Responsibilities

4.1 Employees' responsibilities

4.1.1 In line with their contract of employment, all employees are expected to attend work unless unfit to do so. The payment of sick pay is part of the contract of employment that employees enter into with the Council and as such the employee is required to make themselves available, where reasonable notice is given, throughout their absence for meetings with managers or HR, appointments with OH providers, or for telephone discussions. In addition, employees are required to:

- ❑ Report any sickness absence promptly and in accordance with the Council's sickness absence reporting procedures, which may be supplemented for operational reasons by arrangements within particular Services;
- ❑ Ensure that annual leave is reasonably spread across the year, to allow regular breaks from work;

- ❑ Raise concerns with their manager if they believe that their job is making them ill or contributing to illness;
- ❑ Maintain regular contact with their manager, at an agreed frequency and as required by the procedure;
- ❑ Ensure that appropriate medical certifications are provided, within the timescales outlined in section 11;
- ❑ Co-operate fully with those organisations that provide occupational health support to the Council, and attend appointments when they have been arranged;
- ❑ Ensure that they act upon guidance received from OH and other supportive organisations they have received advice from;
- ❑ Ensure that medical advice and any treatment is obtained as quickly as possible in order to facilitate a return to work;
- ❑ Ensure that they fully inform their GP or consultant of any options and adjustments that the Council is prepared to put in place to support their early return to work;
- ❑ Request annual leave for holidays that they take during a period of sickness absence in accordance with the Council's procedure for requesting annual leave and do not take such annual leave unless that request is granted;
- ❑ Not abuse the Sickness Absence Management Policy or procedures. This includes not engaging in activities whilst off work due to sickness that are not conducive to recovery or which are not consistent with the reason for absence.

4.2 Management responsibilities

- 4.2.1 The responsibility for actively managing and monitoring sickness absence rests with line managers, who will be supported by HR and Occupational Health providers.
- 4.2.2 It is essential that messages about good attendance are reinforced by line managers throughout employment; including pre-employment, induction and probationary periods. Failure to explain the importance of good attendance during the initial phase of employment may lead to patterns of poor attendance developing in the future.
- 4.2.3 In order to set a positive example to their staff, it is expected that line managers will personally aim for excellent attendance.
- 4.2.4 Line managers should be aware of and acknowledge those individuals who have good attendance.
- 4.2.5 Managers should not authorise requests for annual leave that will result in the employee having little leave left for the remainder of the leave year. Where staff have insufficient leave to allow themselves a break from work, this is known to increase the likelihood of sickness absence.
- 4.2.6 Line managers will take the following steps, as a matter of routine, during and after the employee's absence:
- ❑ Record the absence when an employee reports that they are unable to attend work due to sickness.

- ❑ Maintain regular contact with employees throughout their absence.
- ❑ Once the manager knows the absence is or is likely to become long term, they should contact their HR Partner to discuss options for support.
- ❑ In consultation with HR, consider a referral to Occupational Health.
- ❑ Conduct a Return to Work interview within the required timescales, which also acts as a self certification form for absences of up to and including 7 calendar days.
- ❑ Check whether the employee's absences are work related, and if so, explore ways to remove or reduce the factor causing concern.
- ❑ Keep employees informed of their Absence Indicator Points and, when a trigger has been met, take appropriate steps in line with the Policy and Procedure.
- ❑ Ensure that sickness information is regularly updated, i.e., at least weekly on the HR and Payroll system. **As sick pay is paid via the HR and Payroll system, if line managers fail to keep electronic absence information up to date, this will impact on the pay of their employee.**

4.2.7 Where a line manager fails to comply with their responsibilities under this procedure, the Chief Officer should consider, in the first instance, the need for further training prior to considering whether this is a capability matter.

4.3 HR responsibilities

4.3.1 The HR Team are responsible for supporting managers and employees to improve attendance. To this end HR will:

- ❑ provide advice and guidance to managers, employees and Trade Union representatives on the correct implementation of the Policy and Procedure;
- ❑ ensure that managers treat all staff across the Council in a fair and equitable manner;
- ❑ attend formal absence meetings as outlined in the Policy and Procedure;
- ❑ work with the Council's Occupational Health providers and line managers to ensure that reasonable adjustments are put in place where applicable;
- ❑ where absence is due to work related or personal stress, treat the absence as a priority and will arrange early referral to Occupational Health, where possible;
- ❑ supply Management Team with sickness absence information, as required;
- ❑ keep records in line with the Data Protection Act.

5.0 Entitlement to Occupational Sick Pay

5.1 The Council's Sickness Scheme and contractual/occupational sick pay is intended to supplement Statutory Sick Pay (SSP) and Employment and Support Allowance (ESA) so as to maintain normal pay during defined periods of absence on account of sickness, disease, accident or assault. The entitlements given below reflect national conditions of service.

5.2 There is provision in the Sickness Absence Scheme for employees to receive pay for up to the following periods:

	Full Pay	Half Pay
During 1 st year of service	1 months full pay	after 4 months service - 2 months half pay
During 2 nd year of service	2 months full pay	2 months half pay
During 3 rd year of service	4 months full pay	4 months half pay
During 4 th & 5 th year of service	5 months full pay	5 months half pay
After 5 years service	6 months full pay	6 months half pay

5.3 Sickness benefits are calculated by establishing the employee's accrued benefits, as detailed above, then calculating backwards from the first day of a current period of absence and including any sickness periods within the previous twelve months.

5.4 Full sick pay will be an amount which, when added to SSP and ESA receivable, will secure the equivalent of normal pay.

5.5 In the case of half pay periods sick pay will be an amount equal to half of normal earnings plus an amount equivalent to SSP and ESA receivable, so long as the total sum does not exceed normal pay.

5.6 Where there is medical evidence that an employee is no longer fit to fulfil the responsibilities of the job, the Council reserves the right to terminate employment before the expiry of contractual/occupational sick pay, in accordance with this policy.

6.0 Withdrawal of sick pay

6.1 The payment of occupational sick pay is dependent upon the employee complying with the requirements of this Policy and Procedure. An employee will not automatically be entitled to occupational sick pay where they:

- abuse the sickness scheme, including, but not limited to, reporting in sick on the same date an earlier request for annual leave was declined;
- submit a medical certificate, after being invited to any formal meeting in conjunction with potential disciplinary matter, which leads to a delay in the disciplinary process;
- submit a medical certificate upon receipt of a disciplinary sanction;
- submit a medical certificate following their suspension in connection with a disciplinary matter;
- fail to submit a medical certificate in good time and without reasonable explanation;
- fail to attend an OH appointment;
- are absent due to or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect;

- ❑ suffer an injury sustained whilst working in their own time, on their own account for private gain or for another employer,
- ❑ are incapacitated due to actively participating in professional sport:
- ❑ remain absent from work and continue to submit medical certificates after being confirmed as fit for work either by the Council's Occupational Health provider or an employee of the Fit for Work Service;
- ❑ decline to provide contact details.

6.2 The following situations will be classed as unauthorised absence and an employee will not automatically receive any sick pay in respect of the following:

- ❑ any day's leave (or part day) which has not been notified, in line with this document, will be treated as unauthorised absence;
- ❑ failure to comply with the requirements for the provision of medical certification. These situations will be classed as unauthorised absence. Where a medical certificate is subsequently provided, the Council is required to reinstate payment of SSP.

6.2.1 Employee's will not automatically receive any sick pay where they are off sick from the Council, but they continue to work for another employer. This matter may constitute gross misconduct and if proven could lead to dismissal.

6.3 In each of the above circumstances it will be for the Chief Officer to determine if sick pay should be withdrawn from the employee. The Chief Officer will make a decision based on the facts available to them.

6.4 Where sick pay is withdrawn the employee will be advised of the reasons; the length of time sick pay will be withdrawn and their right of appeal for reinstatement of sick pay to the Chief Executive. In these circumstances, the employee will be asked to enter their grounds for appeal in writing, and their appeal will be considered as part of a desk top review by the Chief Executive. The decision of the Chief Executive is final.

6.5 Where any part of sick pay is reinstated this will be reimbursed to the employee at their next normal salary payment date.

7.0 Attendance at appointments

7.1 Attendance at doctors, dentists and hospital appointments are not classed as sick leave and they should not be recorded as such.

7.2 Staff should arrange to attend such appointments in their own time. Paid leave will not be granted. The majority of staff either benefit from the Flexible Working Hours Scheme or work a compressed week, whereby they have one rest day during the normal working week. Additionally, many staff work on a part time basis. All of these working patterns allow employees a great deal of discretion in arranging appointments at a time that will not impact upon their work duties.

7.3 If staff are unable to make appointments in their own time or do not have the benefit of flexi time, in agreement with the line manager, it may be possible for staff to work back the hours within a set time frame. Managers should ensure that, where staff have a medical appointment, they are flexible with such requests, e.g., permitting annual leave to be taken

in hours.

7.4 Cancer screening

In line with the NJC terms and conditions of service (The Green Book), reasonable paid time off will be granted where staff are called to attend a cancer screening appointment. If required, a manager may ask the employee for proof of the appointment. The following cancer screening appointments are covered:

- ❑ national screening programmes, e.g., cervical cancer screening every 3 years;
- ❑ individual screening; where an employee is asked to attend further tests as there is a concern that the employee may be developing cancer;
- ❑ where an individual has previously had cancer treatment and they attend follow up screening appointments in the years following their treatment.

8.0 Employee Third Party Compensation Claims

8.1 Where an employee's absence is as a result of an injury sustained following an accident where third party compensation can be claimed, e.g., as a result of a road traffic accident, they are required to complete a Third Party Compensation Claim Form (form AM5). This only applies where a compensation claim is against someone other than Lancaster City Council.

8.2 The Sickness Absence Management Policy and Procedure forms part of the terms and conditions of employment of all contracted staff at Lancaster City Council. As such the Council will seek to recover any costs borne by Lancaster City Council as a result of absence or injury connected with an accident, where the employee seeks compensation from a third party. These will include, but are not limited to, sick pay paid in respect of any sickness absence as a result of the accident or injury (including employer's pension contributions and National Insurance costs), **as well as any costs arising from supporting the employee during their absence and/or return to work, such as Occupational Health, physiotherapy, counselling and so on.** The employee should advise their insurers/legal advisors of this provision as this is a factor that the employee's representative would need to consider when seeking compensation.

8.3 The employee will be expected to sign an AM5 form agreeing to repay any recovered compensation relating to the loss of pay. Whilst the responsibility for completing the form rests with the employee, managers may provide the employee with a copy of the form. The completed form should be passed to the Risk and Insurance Manager in Financial Services.

8.4 **If the employee does not complete an AM5 form, around the time of the accident or injury and the Council subsequently becomes aware that the employee has made a third party compensation claim, the Council will seek to recover any losses in line with the arrangements in this policy regardless of whether a completed AM5 form is available.**

9.0 Work-related ill health or injury

9.1 If an employee or manager believes that ill health or injury has been caused by work, the employee should complete the Council's Accident/Incident Electronic Report Form at the time or as near to the time of the incident as is practicable.

- 9.2 If an employee has not completed an Accident/Incident Electronic Report Form, but subsequently believes that their ill health or injury is caused by an incident at work, they must report this in writing to their manager, setting out the reasons why they believe that work has contributed or caused their ill health or injury and what prevented them from completing the form at the time of the accident/incident.
- 9.3 Where an Accident/Incident Electronic Report Form has been completed, or where an employee subsequently claims that their ill health or injury is caused by work, the situation should be thoroughly investigated as quickly as possible.
- 9.4 The Chief Officer will determine, based on the facts available, whether or not the employee has sustained an injury or illness as a result of what they were required to do at work, or the treatment they received at work. The Chief Officer will determine whether the facts of the incident have been accurately recorded and that there has been no negligence on the part of the employee.
- 9.5 Payroll and HR must be informed of the Chief Officer's decision. Absence through a confirmed work-related injury or illness will be paid at 6 months full pay and 6 months half pay in accordance with national terms and conditions of employment.
- 9.6 Any personal injury claims received for damages against the Council should be forwarded to Financial Services for the attention of the Risk and Insurance Manager.
- 9.7 Any person who meets the conditions for a payment under the assault provisions of the National Conditions of Service should request a claim form from the Risk and Insurance Manager, within Financial Services. Lancaster City Council does not have an Injury Allowance Scheme under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 [SI 2011/2954].
- 9.8 An employee who is absent due to a confirmed work-related injury or illness will continue to accrue Absence Indicator Points. It is anticipated, however, that in such cases the emphasis will normally be focussed on providing reasonable support for the employee to enable them to return to work within a reasonable timescale.

10.0 Notification of Sickness Absence

- 10.1 In order for service delivery to be maintained, it is essential for line managers to know if an employee is unable to attend work due to illness. Detailed below are the procedures all employees are required to comply with, from the first day of absence and on subsequent days (should the absence continue). In some circumstances these arrangements will be substituted or enhanced by local arrangements. Managers must ensure local arrangements are communicated to the employee as part of the induction phase. Employees who are unsure about reporting arrangements must check with their manager.
- 10.2 Failure to inform the line manager of absence will lead to the absence from work being considered to be unauthorised and will result in the loss of sick pay and may lead to disciplinary action.

10.3 First day of absence

- 10.3.1 The employee must notify their line manager as soon as possible, on the first day of absence that they are unavailable for work. This should be no later than 9.30am or no later than 30 minutes after the normal start time (for those employees who work outside of normal office opening hours).
- 10.3.2 The employee must provide information about their illness or injury, the anticipated length

of absence, whether they have sought or intend to seek medical advice and so on. The employee must inform the manager about any work commitments that may need rearranging.

- 10.3.3 It is not expected, nor is it acceptable; to leave messages with colleagues, or to send text messages or emails to report in sick. If the manager is unavailable, the employee should leave a message and telephone contact number, ensuring they get the name of the person they have left the message with. Absence reported via an unauthorised party, i.e. a message left with a work colleague, without good reason, may be considered a breach of policy and may lead to the withdrawal of sick pay and/or disciplinary action. As part of the induction phase the manager must advise the employee of the appropriate contact arrangements in the event of an absence.
- 10.3.4 If a message is received from the employee, as outlined at 10.3.3, the manager must telephone the employee back at the first available opportunity, on the first day of absence. Only when a manager is absent from work themselves, should the call be passed to another manager, who must ensure that they speak to the absent employee.
- 10.3.5 The manager must agree with the employee when the employee will next make contact. Where the employee is unsure when they will be fit to return to work, but the absence is still considered to be short term, the manager and employee must agree a regular pattern of contact. As a minimum this should be on the 2nd, 4th and 8th day of absence. For operational reasons, the manager may request the employee makes contact on each day of absence until a medical certificate is issued.
- 10.3.6 In exceptional circumstances it may be impossible for the employee to telephone in person, e.g., if they have been seriously injured. The person making contact on behalf of the employee must be prepared to provide the information that would normally have been provided by the employee. As soon as they are able to do so, the employee should make contact with their line manager.
- 10.3.7 Employees who become unwell during their working day and feel unable to continue with their duties should notify their manager that they are leaving their place of work. Employees who leave part way through a working day will be credited with their standard pay and hours.

10.4 Second Day

- 10.4.1 The employee must contact the manager on the second calendar day of absence (or first available working day after this) as detailed in section 10.3.

10.5 Fourth Day

- 10.5.1 On the fourth calendar day of absence, (or first available working day after this) the employee must again contact the manager as outlined in section 10.3.

10.5 Eighth Day

- 10.5.1 On the eighth day of absence (or first available working day after this) the employee must contact the manager and further discuss the reason for their continued absence, likely duration of sickness, any treatment they are receiving and any other relevant matters.
- 10.5.2 In addition, from the eighth day of absence the employee must obtain a "Statement of Fitness for Work" or medical certificate signed by a doctor to certify the reason for their absence. See section 11.

10.6 Maintaining Contact

10.6.1 When an employee is absent from work due to sickness it is important that regular (at least weekly) contact is maintained between the manager and employee. It is expected that this contact will be via the telephone or in person. It is important to maintain contact for the following reasons:

- ❑ To maintain a regular dialogue between the employee and manager;
- ❑ To ensure that the employee does not feel isolated. It is recognised that where an employee begins to feel disconnected from their work environment they are less likely to return to work in the short term;
- ❑ To ensure that opportunities to provide relevant support and assistance for the employee are identified;
- ❑ To provide the employee with opportunities to raise any concerns they have regarding their absence;
- ❑ To allow the manager to temporarily reallocate duties.

10.6.2 If it is apparent that an employee is going to be absent from work for more than 3 weeks, the line manager must arrange a welfare meeting with the employee during the 3rd or 4th week of absence to discuss their current health situation and what assistance the Council can provide to assist them in returning to work. If it would be beneficial to do so, the welfare meeting can be held earlier than the 3rd week.

10.6.4 The welfare meeting is not part of the formal process, however on occasion it may be helpful if a member of the HR Team attends; particularly if detailed advice is required regarding support available and/or adjustments.

10.6.5 The meeting will normally take place either at the employee's home or at the workplace. The location of the meeting will be largely determined by the employee's health and mobility.

10.6.6 If the employee is hospitalised the manager should aim to visit the employee in hospital by the 3rd or 4th week of the employee's inpatient stay. Regardless of the reason for the hospitalisation it is important the manager keeps in contact with the employee if possible. It is recognised that in some circumstances it may be necessary to be in contact with another family member.

10.6.7 It may be beneficial for the manager to send a brief follow up letter, following the welfare meeting.

10.6.8 If absences are long-term, regular contact (weekly) should be maintained between the employee and manager, for the reasons outlined in this document.

11.0 Certification of Sickness Absence

11.1 Every absence has to be certified to ensure prompt and correct payment of occupational and SSP, as well as ESA and to ensure that accurate records are maintained.

11.2 Where employees fail to comply with appropriate certification requirements, absence will be treated as unauthorised and pay withdrawn until the employee provides appropriate certification. Where no good cause is shown for failing to provide medical certificates in a timely manner this may result in loss of sick pay (as outlined in section 6) and/or possible

disciplinary action. Misleading or false statements will be dealt with under the Council's Disciplinary Policy and Procedure.

- 11.3 The Council's Return to Work form has a dual purpose, in that it also acts as a self-certification for absences between 4-7 days duration.
- 11.4 If the employee is absent for more than seven consecutive calendar days they must consult a doctor and obtain a medical certificate, which must be forwarded to the manager without delay and received by the Council by the 10th day of absence.
- 11.5 If the medical certificate is not received, then absence will be classed as unauthorised and will be considered under the arrangements for unauthorised absence.
- 11.6 The employee must continue to provide medical certificates to cover all subsequent dates of consecutive absence.

11.7 Statement of Fitness to Work / Fit Notes

- 11.7.1 Medical certificates are now also known as a "statement of fitness for work". Doctors are able to indicate on the certificate whether the employee is able to return to work with some minor and/or temporary adjustments.
- 11.7.2 Managers are expected to give full consideration to whether the proposed adjustments can be accommodated, to support the employee back to work at an early point. In some circumstances it may be appropriate to consider temporarily moving the employee to a different role or service, if suitable alternative work is available.
- 11.7.3 If the employee believes that they are well enough to return to work, prior to the expiry date on the medical certificate, they are able to do so. Fit notes are advice notes and as such an employee may decide that they feel sufficiently well to return to work earlier than the GP anticipated. In these circumstances it may be helpful for the employee to discuss this with their manager, who may wish to seek advice from HR.
- 11.7.4 Employees are expected to return to work promptly at the end of their medical certificate. In the majority of cases the employee will be able to return to their normal duties, but in other cases it may be appropriate to accommodate temporary adjustment to duties. Managers should seek to accommodate reasonable adjustments, whilst ensuring that any temporary change in duties is for a time defined period.

12.0 Sickness Absence Indicator points

- 12.1 The Council uses the widely recognised Bradford Factor Index as a way of monitoring an individual employee's level of absence. The method of multiplying the number of absences is a fair way of identifying and differentiating between regular short term absence and less frequent longer term absences. Absence Indicator Points are the number of periods of absence in a rolling 12 month period multiplied by itself, then multiplied by the total number of days absence in the same period. The calculation weights the number of instances of absences and is an indicator of the disruption caused by absence.
- 12.2 The following equation is therefore used to calculate an employee's total Absence Indicator Points:

$$\text{(Actual periods of absence)}^2 \times \text{Total number of days lost.}$$

- 12.3 The relevant period for the purpose of calculating Absence Indicator Points is a rolling twelve months, i.e., when looking at absence a manager will review all absences in the last 12 month period from the start date of the most recent absence.
- 12.4 Where an employee's Absence Indicator Points have reached or exceed 60 in a rolling 12 month period they will exceed the Council's Trigger Point and the line manager is required to commence the formal process.
- 12.5 To ensure that full time and part time staff are treated equitably in the application of this policy, employees who do not work a 5 day week pattern will have a pro-rata trigger point as follows:
- 4 days = 48, 3 days = 36, 2 days = 24 and 1 day =12.
- 12.6 Additionally, where a pattern of persistent short-term absence is identified, but the Absence Indicator Point total is less than the Trigger Point, the manager may still commence the formal process. This may include, but is not limited to, a pattern of absences occurring at the beginning or end of a week; during school holidays; coinciding with sporting or other events; or when an employee reports sick on the same day that a leave request had been declined. In order to consider patterns in an employee's absence history, managers will review absence data from previous years.
- 12.7 The manager may also commence the formal process where there is evidence that an employee regularly remains just below the absence trigger point due to minor health issues, where there is no underlying cause.

13.0 Return to Work (Informal Absence Review Procedure)

- 13.1 When an employee returns to work following sickness absence, the line manager is required to meet in a private setting with the employee, ideally on the first day back, or within three working days of the return to work, to conduct a Return to Work interview. Return to Work interviews are **mandatory** after every period of sickness.
- 13.2 Return to Work interviews are informal discussions and employees have no statutory right to be accompanied. HR and trade union representatives will not attend Return to Work interviews.
- 13.3 The manager should express their concern for the employee's welfare, balanced with their concerns about service delivery and the impact on other team members. The manager should also discuss with the employee options for further assistance to improve their attendance, if required.
- 13.4 Managers should ensure that staff are aware of their accumulated points total and what any future absences may mean for the employee, if they exceed the Trigger Point or other pre-existing absence target.
- 13.5 Where a manager has discussed the implications of further absence with the employee, the manager should note those either on the RTW form or in any follow up correspondence. The RTW interview is therefore an opportunity for managers to counsel staff about their attendance and to try and identify with the employee whether any reasonable steps can be taken to assist the employee in achieving improved attendance.
- 13.6 Employees have the opportunity to add comments on the RTW form. Where employees do not wish to enter a comment, managers should ask the employee to annotate the employee comments section with 'no comments', before signing it and passing it back to the manager. If an electronic RTW form is completed the manager should note any

employee comments (or 'no comments') in the appropriate section.

- 13.7 During the meeting a manager will establish whether a Formal Absence Review is required and to consider what, if any, additional information may be required to ensure a full review can be conducted in a fair, constructive and timely manner.
- 13.8 The Return to Work interview form, which will be completed and signed by both parties during the discussion, is a record of the points that have been covered. A copy of the form must be sent to HR within 5 days of the discussion, and will be retained on the employee's personal file. If the employee requests a copy of the form, the line manager should indicate that a copy of the form has been provided in the relevant box. The electronic RTW form should automatically be sent both to HR, the line manager and the employee.

14.0 Referral to Occupational Health

- 14.1 The Council seeks to support employees via the provision of Occupational Health (OH) support. The role of OH is to provide advice and guidance to the Council and employees on matters relating to work place health and attendance. The OH provider will work with the Council to support good levels of attendance.
- 14.2 Where a manager has concerns about an employee's health a referral to OH may be beneficial. The manager may wish to seek advice on this matter from their HR Partner.
- 14.3 Prior to the referral, the manager should discuss with the employee why they consider a referral to OH will be of assistance. Managers will complete a referral form for the initial OH appointment, which is available on the HR pages of Elsie. It is important that information on the form is factually correct and provides the OH advisor with sufficient information to ensure the employee gets benefit from the appointment and the Council also receives relevant information.
- 14.4 HR will book an appointment for the employee and will inform the manager and employee of the date, time and location of the appointment.
- 14.5 The OH provider will ensure that the employee is aware of their rights under the Access to Medical Reports Act, if the OH advisor considers it beneficial to obtain a report from the employee's GP or consultant.
- 14.6 Following the appointment the OH advisor will provide written guidance in the form of a report, provided to the employee, the manager and HR. The manager should consider the content of the report and discuss with the employee.
- 14.7 All Council employees are required to attend medical appointments or examinations with the Council's nominated OH provider, subject to the provisions of the Access to Medical Reports Act, where applicable.
- 14.8 If an employee declines a referral to OH or refuses to permit medical information to be shared with the Council, management will be required to base any judgements, including the employee's suitability to continue to work for the Council, on the information available to them at the time. The implications of a failure to provide access to medical information (in accordance with the relevant legislation), should be discussed with the employee.
- 14.9 The provision of an OH service is of benefit both to the Council and to employees. Wasted appointments are costly to the Council and could be used for another employee's benefit. Where an employee confirms their attendance then subsequently fails to attend an OH appointment, consideration will be given to withdrawing OSP for the period up to the next available OH appointment in line with the provisions in section 6.

15.0 Short Term Absence - Formal Procedure

15.1 Right to be accompanied

The Policy provides for all employees to be accompanied by a trade union representative or work colleague during each of the stages within the formal procedure, though the statutory right to be accompanied only applies when the meeting could result in the issue of a formal sanction.

15.2 Notice

15.2.1 Employees will be given at least 5 working day's notice of the meeting. Where a trade union representative or work colleague is not available, this should not unduly delay the meeting. However the Council will seek to accommodate the request to rearrange the meeting. It is not expected that this would need to happen on more than one occasion.

15.2.2 Where a bundle of documents is to be provided for consideration at any formal meeting, the employee must be provided with that bundle 5 working days prior to the meeting.

15.3 HR support

15.3.1 A member of the HR Team is required to attend all meetings from Stage 3 and above. Managers may elect to conduct meetings at Stage 1 and Stage 2 without HR support, though HR support is available on request. Managers who are unfamiliar with the process should request HR support to ensure they comply with the policy.

15.3.2 If the manager does not require HR support at Stage 1 or Stage 2, they must discuss the case with the HR Partner prior to the formal meeting, to ensure that they are aware of any issues of precedence and equity and have up to date guidance on the appropriate target to be issued. The manager must ensure that they comply will all aspects of the policy and should be aware that a failure to appropriately follow the policy, during the earlier stages, may impact upon the process in the latter stages. Where is it apparent that a manager is unable to comply with the provisions of the policy it will be necessary for HR to become involved in any future absence meetings to ensure equity in the application of the policy.

15.4 Written confirmation

Written confirmation of the outcomes of each of the formal stages must be provided to the employee within 5 working days of the formal meeting. A range of template letters are available to assist managers.

The manager must ensure the letter clearly explains:

- the target the employee must achieve;
- details of any adjustments or support agreed;
- the timescale during which their absence is under review;
- the date at which the Target Review Period ends;
- the intended date of the interim review meeting (if one is set);
- the intended date of the follow up meeting (if the target is achieved during the review period);

- the consequences of failing to achieve the target;
- the employee's right of appeal.

A copy of the letter must be provided to HR for the employee's personal file.

15.5 Right of Appeal (excluding appeals against dismissal)

- 15.5.1 Employees have the right of appeal against the decision of the Hearing Officer following each of the formal stages of the Short Term Absence element of the Sickness Absence Management Procedure.
- 15.5.2 Appeals must be submitted in writing within 5 working days of receipt of the written notification of the outcome of the hearing, clearly stating the grounds for appeal to the HR Partner.
- 15.5.3 Appeals against any formal level within the Sickness Absence Management Procedure, except appeals against dismissal, will only be considered for the following reasons:
- To appeal against the level of Attendance Improvement Target that has been set and/or the duration of the review period.
 - To allow the employee to argue that the original Hearing Officer reached an unfair decision.
- 15.5.4 Further information concerning appeals against dismissal is contained in Section 20.
- 15.5.5 Where possible, the appeal will be heard within 10 working days of an appeal being received. The appeal will be heard by a manager of the same level or more senior level than the original Hearing Officer, and this may be a manager from another service unit.
- 15.5.6 The appeal hearing will be conducted in line with Appendix B.
- 15.5.7 The Appeals Hearing Officer will communicate their decision in writing within 5 working days of hearing the appeal.

15.6 Reviews

- 15.6.1 Interim and follow up reviews must be arranged by the manager at the midway point and the end of the Target Review Period, respectively. There is no requirement for an interim review after either a Stage 1 – First Formal Absence Meeting or Stage 2 – Second Formal Absence Meeting. Managers may wish to hold interim reviews at their discretion.
- 15.6.2 The employee is entitled to representation at interim and follow up reviews. HR support is optional at Stage 1 and Stage 2, subject to the provisions of section 15.3, and is only required at meetings from Stage 3 onwards.
- 15.6.3 It is important that reviews are not missed and it is the manager's responsibility to schedule the review at an appropriate time and to give sufficient notice of the meeting. To ensure that they are not missed, it is wise to schedule the review once the Formal Absence Meeting has taken place and to include reference to the date of the review meeting in the outcome letter.
- 15.6.4 An interim review is an opportunity for the manager to acknowledge improvements in attendance and consider that any actions previously agreed have been implemented and are progressing satisfactorily.

- 15.6.5 Where there has been further absence by the date of the interim review, but the target has not been exceeded; the reasons for absence will be discussed with the employee and any follow up actions discussed and agreed. The manager will also remind the employee that they risk exceeding their target and what the result of that would be.
- 15.6.6 If the target has been exceeded the manager will proceed to the next formal stage.
- 15.6.7 It is a requirement of the policy that at the end of the Target Review Period a follow up meeting is arranged to discuss the employee's attendance and, if they have achieved their target, to formally note this success. The manager should also remind the employee of the consequences should their attendance levels deteriorate again in the next 12 months
- 15.6.8 The manager must write to the employee, within 5 working days of a review meeting, confirming what was discussed and the outcome. A copy must be provided to HR.

16.0 Stage 1 – First Formal Absence Meeting

- 16.1 When an employee's Absence Indicator Points have reached or exceeded the Trigger Point or where a manager has concerns about patterns of absence a Stage 1 - First Formal Absence Meeting will be held with the employee.
- 16.2 If an employee has returned from a long term absence and their resulting Absence Indicator Points exceed the Trigger Point a Stage 1 - First Formal Absence Meeting must also take place at a suitable point following the employee's return to work to set an improvement target for the future.
- 16.3 If an employee's absence levels have, during any part of the preceding 12 months, been under formal review as part of this procedure; and their absence levels have again increased, they will automatically be considered at a **Stage 2 – Second Formal Absence Meeting**.
- 16.4 The purpose of the Stage 1 – First Formal Absence Meeting is to:
- discuss the employee's absence record;
 - review the Absence Indicator Points and/or pattern of absence(s);
 - explore the reasons for the high level of absences;
 - discuss (if available) any OH information that has previously been requested;
 - identify areas for support;
 - review/update the risk assessment (if required);
 - set an attendance improvement target;
 - explain the consequences of failing to achieve the target.
- 16.5 The employee will be expected to participate in the discussion and offer their own suggestions for how they might improve their attendance.
- 16.6 The following points will be considered by the manager (this list is not exhaustive):
- In all cases it is a requirement that an Attendance Improvement Target must be set.

Guidance on targets is available from HR and it is expected that managers will seek advice on targets prior to issuing them to ensure consistency in their application.

- ❑ In cases where the employee has an underlying disability, as defined in the Equality Act 2010, advice must be obtained from HR on the appropriate target and review period. Subject to the nature of the absences to date and the nature of the disability it may be appropriate to set a more generous target, as an adjustment under the Act.
- ❑ A Target Review Period will be put in place for a defined period of time. At a Stage 1 – First Formal Absence Meeting, the Target Review Period will be of 6 – 12 months duration. The manager will decide on the length of the Target Review Period, having had due regard to the employee's reasons for absence and whether or not they have previously been in the formal sickness management procedure.
- ❑ In considering the duration of the review, the manager should aim to ensure that, by the completion of the Target Review Period, the employee's Absence Indicator Points will have dropped below the Trigger Point and ideally have reduced to zero. In the majority of cases a 12 month review period will be appropriate.
- ❑ Advice may be sought from the Council's Occupational Health Advisor/Physician.
- ❑ Other support mechanisms may be identified and implemented.
- ❑ Reasonable adjustments such as changes to workload, working practices or working patterns (temporary or permanent), additional training or the possibility of redeployment (subject to receipt of OH advice) may be identified.
- ❑ The employee will be advised if an interim review is to take place and that a follow up review will take place at the end of the Target Review Period.
- ❑ The employee will be advised that if they exceed their Attendance Improvement Target at any point during the Target Review Period, they will automatically be called to a Stage 2 – Second Formal Absence Meeting.

16.7 The manager must write to the employee as outlined in section 15.4.

16.8 Interim and follow up reviews

16.8.1 Reviews will be carried out as outlined in section 15.6.

16.8.2 There is no requirement following a Stage 1 – Formal Absence Meeting to arrange an interim review. However, managers may wish to do so at their discretion.

16.8.3 A follow up review must be arranged for the end of the Target Review Period. If the employee's attendance has improved the manager should commend them on the improvement shown and advise that they are no longer subject to formal review. The manager should advise that if the employee's attendance deteriorates again, so that they exceed the Trigger Point in the 12 months following the successful completion of the Target Review Period, they will automatically re-enter the formal process at Stage 2.

16.8.4 Following a review the manager will write to the employee in line with section 15.6.8.

17.0 Stage 2 – Second Formal Absence Meeting

17.1 If, during the Target Review Period, the employee exceeds their Attendance Improvement

Target, set for them at the Stage 1 of the process, they will be called to a Stage 2 – Second Formal Absence Meeting by the manager.

- 17.2 If an employee's absence levels have, during any part of the preceding 12 months, been under formal review as part of this Policy and Procedure; and their absence levels again reach the Trigger Point, they will automatically be called to a Stage 2 – Second Formal Absence Meeting by their manager.
- 17.3 The attendance of HR at a Stage 2 – Second Formal Absence Meeting is optional. Representation and notification arrangements will be as set out in section 15.
- 17.4 The purpose of a Stage 2 – Second Formal Absence Meeting is to:
- ❑ review and reaffirm issues previously discussed with regard to employee's attendance;
 - ❑ review the Absence Indicator Points and/or pattern of absence(s);
 - ❑ explore the reasons for the high level of absences;
 - ❑ discuss any recent Occupational Health advice, if available;
 - ❑ identify any further areas for support;
 - ❑ review/update the risk assessment (if required);
 - ❑ review the efficacy of any support already provided to the employee and amend if appropriate;
 - ❑ set targets for improvement;
 - ❑ explain the consequences to the employee of no improvement.
- 17.5 The following outcomes will be considered by the manager (this list is not exhaustive):
- ❑ In all cases it is a requirement that an Attendance Improvement Target must be set. Guidance on targets is available from HR and it is expected that managers will seek advice on targets prior to issuing them.
 - ❑ In cases where the employee has an underlying disability, as defined in the Equality Act 2010, advice must be obtained from HR on the appropriate target and review period. Subject to the nature of the absences to date and the nature of the disability it may be appropriate to set a more generous target, as an adjustment under the Act.
 - ❑ A Target Review Period will be put in place for a defined period of time. At a Stage 2 – Second Formal Absence Meeting, a Target Review Period of 9 - 12 months duration will be set. The manager will decide on the length of the Target Review Period, having had due regard to the employee's reasons for absence and whether or not they have previously been in the formal sickness management procedure.
 - ❑ In considering the duration of the review, the manager should aim to ensure that, by the completion of the Target Review Period, the employee's Absence Indicator Points will have dropped below the Trigger Point and ideally have reduced to zero. In the majority of cases a 12 month review period will be appropriate.
 - ❑ Advice may be sought from the Council's Occupational Health Advisor/Physician.
 - ❑ Other support mechanisms may be identified and implemented.

- ❑ Reasonable adjustments such as changes to workload, working practices or working patterns (temporary or permanent), additional training or the possibility of redeployment (subject to the receipt of OH advice) may be identified.
- ❑ The employee will be advised that an interim review will be held midway through the Target Review Period and a follow up review at the end of the Target Review Period.
- ❑ The employee will be advised that, if they exceed their absence target at any point during the Target Review Period, they will automatically be called to a Stage 3 – Capability Review Meeting.

17.6 The manager must write to the employee as outlined in section 15.4.

17.7 Stage 2 - Interim and follow up reviews

17.7.1 Reviews will be carried out as outlined in section 15.6.

17.7.2 There is no requirement following a Stage 2 – Second Formal Absence Meeting to arrange an interim review. However, managers may wish to do so at their discretion.

17.7.3 A follow up review must be arranged for the end of the Target Review Period. If the employee's attendance has improved the manager should commend them on the improvement shown and advise that they are no longer subject to formal review.

17.7.4 The manager should counsel the employee that, should their attendance deteriorate again, so that they exceed the Trigger Point in the 12 months following the successful completion of the Target Review Period, they will automatically re-enter the formal process at Stage 2.

17.7.5 Following a review the manager will write to the employee in line with section 15.6.8.

18.0 Stage 3 – Capability Review Meeting

18.1 If the employee has further absences and, as a consequence, they exceed the absence target (set for them at the Stage 2 – Second Formal Absence Meeting) at any point during the Target Review Period, the employee will be called to a Stage 3 – Capability Review Meeting.

18.2 In the majority of cases the meeting will be carried out by the same manager who has held the Stage 1 and Stage 2 meetings. However, in some circumstances it may be appropriate for a more senior manager (below the level of Chief Officer) to hear the Stage 3 – Capability Review Meeting. This will be a matter for local management to decide.

18.3 HR will be in attendance at a Stage 3 – Capability Review Meeting. Representation and notification arrangements will be as set out in section 15.

18.4 In all cases, recent OH advice must be obtained (i.e., within 4 - 6 weeks of the date originally scheduled for the meeting) to allow full discussion with the employee. If the employee fails to attend the OH appointment, the meeting may proceed without the benefit of recent OH advice.

18.5 The purpose of a Stage 3 – Capability Review Meeting is to identify if anything further can be done by the Council to improve the employee's attendance. Stage 3 is an opportunity to review the full case history and ensure that the manager has considered all reasonable options to improve the employee's attendance. At the meeting the manager will:

- ❑ Review with the employee any supportive measures that have been put in place to assist the employee in improving their attendance, e.g., adjustments, targets, referral to OH, etc., and amend if appropriate;
- ❑ Consider whether there is any further reasonable support that can be provided to the employee;
- ❑ Review and reaffirm issues previously discussed with regard to the employee's attendance;
- ❑ Review the Absence Indicator Points and/or pattern of absence(s);
- ❑ Explore the reasons for the high level of absences;
- ❑ Review/update the risk assessment (if appropriate);
- ❑ Explain to the employee that lack of improvement will result in their referral to a Stage 4 Case Management Hearing, which may result in their dismissal;
- ❑ Set targets for improvement and discuss a date for an interim review. If the manager considers it necessary, there can be more than one interim review meeting to discuss the employee's progress.

18.6 As the aim of the meetings is to identify reasonable options to support the employee in improving their attendance, the employee will be expected to contribute to the discussion and to make their own suggestions about steps they can take to improve their attendance.

18.7 The following points will be considered by the manager (this list is not exhaustive):

- ❑ In all cases it is a requirement that an Attendance Improvement Target must be set. Guidance on targets is available from HR and it is expected that managers will seek advice on targets prior to issuing them.
- ❑ In cases where the employee has an underlying disability, as defined in the Equality Act 2010, advice must be obtained from HR on the appropriate target and review period. Subject to the nature of the absences to date and the nature of the disability it may be appropriate to set a more generous target, as an adjustment under the Act.
- ❑ A target will be put in place for a set period of time, which is called the Target Review Period. At a Stage 3 – Capability Review Meeting, a Target Review Period of 9-12 months duration will be set. The manager will decide on the length of the Target Review Period, having had due regard to the employee's reasons for absence and whether or not the employee has previously reached Stage 3 of this procedure.
- ❑ In considering the duration of the review, the manager should aim to ensure that, by the completion of the Target Review Period, the employee's Absence Indicator Points will have dropped below the Trigger Point and ideally have reduced to zero. In the majority of cases a 12 month review period will be appropriate.
- ❑ Advice may be sought from the Council's Occupational Health Advisor/Physician.
- ❑ Other support mechanisms may be identified and implemented.
- ❑ Reasonable adjustments such as changes to the workload, working practices or working patterns (temporary or permanent), additional training or the possibility of redeployment (subject to the receipt of OH advice) may be identified.

- The employee will be advised that an interim review will be held midway through the Target Review Period (or at more frequent intervals should that be considered necessary).
- The employee will be advised that if they exceed their absence target at any point during the Target Review Period, they will automatically be called to a Stage 4 – Case Review Hearing where their absence will be considered by a Chief Officer.

18.8 The manager must write to the employee as outlined in section 15.4.

18.9 Stage 3 - Interim and follow up reviews

18.9.1 Reviews will be carried out as outlined in section 15.6.

18.9.2 An interim review must be held midway through the Target Review Period.

18.9.3 A follow up review must be arranged for the end of the Target Review Period. If the employee's attendance has improved the manager should commend them on the improvement shown and advise that they are no longer subject to formal review.

18.9.4 The manager should counsel the employee that should their attendance deteriorate again, so that they exceed the Absence Indicator Trigger Point, in the 12 months following the successful completion of the Target Review Period, they will automatically re-enter the formal process at Stage 2.

18.9.5 Following a review the manager will write to the employee in line with section 15.6.8.

19.0 Stage 4 - Case Review Hearing

19.1 Employees will be required to attend a Stage 4 – Case Review Hearing, which will be carried out by a Chief Officer where there are continuing concerns regarding an employee's level of sickness absence and improvement targets have not been met.

19.2 The purpose of the Stage 4 - Case Review Hearing is for the Hearing Officer to consider whether, having reviewed the evidence presented, there are any further actions that the Council can take to assist the employee in improving their attendance and thereby continuing in employment.

19.3 The Stage 4 - Case Review Hearing will also consider whether employment should be terminated due to an employee's incapability to work effectively for a reason linked to ill health or an inability to attend to an acceptable level.

19.4 The employee will be given 5 working days written notice of the intention to hold a Stage 4 – Case Review Hearing and will be entitled to be accompanied by a Trade Union representative or work colleague, as outlined in section 15. The Hearing Officer will be advised by a member of the HR Team.

19.5 The Stage 4 - Case Review Hearing will be carried out as outlined at Appendix C. The employee will be given the opportunity to present their case and others involved in the employee's case, such as the line manager, will also be asked to provide information on what steps have been taken to improve the employee's attendance.

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

- 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.

19.7 The above list is not exhaustive and the weight attached to each issue will depend upon the circumstances of the case. It will be the responsibility of the Hearing Officer, in making a decision, to balance both the needs of the employee and the requirement for effective delivery of Council services.

19.8 If the Hearing Officer concludes that the employee is to be dismissed for short-term persistent absence, the dismissal will be linked to the employee's inability to attend work to an acceptable standard. Where an employee is dismissed under this Policy and Procedure it will be with contractual notice. Consideration may be given to the option of payment in lieu of notice. Contractual notice will be paid at full pay.

19.9 In line with Council practice, accrued annual leave should be taken by the employee if they are serving their notice period.

19.10 Normally the employee will be informed verbally of the outcome at the conclusion of the hearing, and the decision will be confirmed in writing within 5 working days. Where this is not possible, the employee will be advised of the decision in writing within 5 working days.

19.11 Where a decision is made to terminate employment, the employee will have the right of appeal against the decision. See section 20.

19.12 If the Hearing Officer decides that dismissal is not appropriate, it is for the Hearing Officer to define any further review periods or absence targets. In the case of short-term absence, it would be expected that the employee would be moved back to Stage 3 of the procedure for further monitoring and support (as appropriate). In such cases, the Hearing Officer will write to the employee within 5 working days (as outlined in section 15.4) setting out the decision, the points discussed, future actions and targets and the consequences of improvement targets not being met.

20.0 Right of Appeal against Dismissal

20.1 Where a decision is made to terminate employment on the grounds of ill health or poor attendance, the employee has the right of appeal.

20.2 In order to exercise this right, the employee must write to the HR & OD Manager within 10 working days of receipt of the written notice of termination of employment. The employee must clearly state their grounds for appeal.

- 20.3 Personnel Committee, sitting as the Appeals Panel, will aim to hear the appeal against dismissal within 20 working days of receipt of the employee's letter of appeal. If it is not possible to hear the appeal within the above timescale, the HR & OD Manager will write to the employee setting out the reason for delay and the intended date of the hearing.
- 20.4 The appeal against dismissal will be conducted in accordance with Appendix D.
- 20.5 In accordance with the procedure, Personnel Committee, sitting as the Appeals Panel, will communicate their final decision in writing within 5 working days of hearing the appeal.
- 20.6 Their decision is final within the Council's internal procedures

21.0 Long Term Absence

- 21.1 Long term absence is considered to be any absence that is or is likely to result in the employee being away from the work for 20 working days/4 weeks or more. Where it is known that an employee's absence is likely to extend beyond 20 working days/4 weeks, it is not expected that managers wait until 4 weeks have elapsed before taking steps to support the employee back to work.
- 21.2 For part-time employees the 20 working days will be pro-rated in line with their working pattern to ensure equitable treatment.
- 21.3 As soon as the manager knows that an employee has been, or will be, absent for 4 weeks they must contact their HR Partner and arrange for an Occupational Health referral to be made (if appropriate). It is important that managers treat long term absence as a priority, as early interventions increase the likelihood of a successful return to work.
- 21.4 Absences due to stress, anxiety, depression or other mental health concern, whether personal or work related, must be treated as a priority. The manager should contact HR within 2 weeks of the start of the absence and HR will arrange for an OH appointment as early as practicable.
- 21.5 There will be occasions when an OH appointment is not required early on in the absence, for example when an employee is recovering from a major operation. In many cases an OH appointment will be beneficial at a later point, as OH will be able to give practical guidance on assisting the employee back to work.
- 21.6 In the majority of cases of long term absence advice will normally be sought from the Council's OH provider. Depending on the circumstances of an individual case an OH referral may be earlier or later than 4 weeks. The purpose of gaining OH advice will be to provide an indication of the likely duration of the employee's absence and whether any steps can be taken to help the employee to return to work. HR can advise on this.
- 21.7 Where an employee has been referred to OH, the OH provider will supply a report. Depending upon the advice received from OH, one or more of the following actions may be taken:
- ❑ A review appointment may be arranged with OH.
 - ❑ Reasonable adjustments such as changes to the workload, work practices or work pattern may be identified and implemented, either as part of phasing the employee back to work or on a more permanent basis.
 - ❑ Other support mechanisms may be identified and implemented.

- ❑ Referral to the Council's OH Physician for more accurate diagnosis, further advice, consideration of ill health retirement, and so on.
- ❑ The OH advisor may determine that the employee is fit for work, in which case they will be required to return immediately or on a date set by the OH advisor, manager or HR Partner. Where an employee does not return to work after confirmation has been received that they are fit to do so, either from OH or from the Fit to Work Scheme, consideration will be given to withdrawal of Occupational Sick Pay in line with section 6.

21.8 As outlined in section 10 a welfare meeting should take place during the 3rd or 4th week of absence. Following the initial welfare meeting, the manager should ensure that further review meetings take place at regular intervals and that regular, ideally weekly, contact is maintained with the employee.

22.0 Long Term Absence - Formal process

22.1 Right to be accompanied

The Policy provides for all employees to be accompanied by a trade union representative or work colleague during each of the stages within the formal procedure, though the statutory right to be accompanied only applies when the meeting could result in the issue of a formal sanction.

22.2 Notice

22.2.1 Employees will be given at least 5 working days notice of the meeting. Where a Trade Union representative or work colleague is not available, this should not unduly delay the meeting, however the Council will seek to accommodate the request to rearrange the meeting. It is not expected that this would need to happen on more than one occasion.

22.2.2 Where a bundle of documents is to be provided for consideration at any formal meeting, the employee must be provided with that bundle 5 working days prior to the meeting.

22.3 HR support

A member of the HR Team is required to attend all stages of the Formal Long Term Absence process.

22.4 Written confirmation

Written confirmation of the outcomes of each of the formal stages must be provided to the employee within 5 working days of the formal meeting.

The manager must ensure the letter clearly explains:

- ❑ the points covered during the discussion;
- ❑ any steps that the employee or Council intend to take to facilitate a return to work;
- ❑ details of any proposed adjustments or support agreed;
- ❑ the date of the next meeting;
- ❑ the nature of the next meeting e.g. further Formal Long Term Absence Review;
- ❑ the next steps and potential outcomes if the employee's absence continues.

A copy of the letter must be provided to HR for the employee's personal file.

23.0 Formal Long Term Absence Review Meetings

- 23.1 The commencement of the formal process ensures appropriate consideration is given to supporting the employee and assisting in their return to work, as soon as is reasonably practicable. However, this does not and should not prevent ongoing dialogue between the employee and their manager concerning their welfare and the provision of information by the employee that could assist the Council in returning the employee to work.
- 23.2 A Long Term Absence (LTA) Review Meeting is an opportunity for the manager and employee to maintain regular contact, to discuss the absence, any available options to assist the employee back to work and the likely timescale within which that is likely to happen. It is important that an open discussion takes place so that the Council understands any health issues or perceived barriers that may prevent an early return to work.
- 23.3 LTA Review Meetings will take place throughout the employee's absence. Such meetings will normally take place within the specified timescales. It is an expectation that meetings should take place on a 4 – 6 week basis throughout the duration of the absence.
- 23.4 The timing of the First LTA Review Meeting will depend upon the nature of the absence. There will be occasions when, based on the particular case, it is appropriate for the First LTA Review Meeting to take place either earlier or later than normal. It is a normal expectation that a First LTA Review Meeting will take place between 6 – 10 weeks.
- 23.5 A Second LTA Review Meeting will normally take place, if the employee remains absent from work, 10 – 14 weeks after the absence commenced.
- 23.6 Prior to a referral to a LTA - Case Review Hearing, a minimum of two LTA Review Meetings must have taken place, **except when the provisions of section 23.13 apply**. It is likely that in many cases there will be more than two LTA Review Meetings.
- 23.7 Where the manager, in consultation with HR, considers that further LTA Review Meetings are required, these will take place on a 4 – 6 week basis throughout the employee's absence. If the employee is attending appointments with OH it is good practice to arrange a LTA Review Meeting following receipt of the most recent OH advice.
- 23.8 During the LTA Review meeting(s) the following points will be covered:
- ❑ review the employee's absence to date;
 - ❑ review what steps are being taken to assist the employee back to work;
 - ❑ what steps the employee and their medical advisors are taking to facilitate that process;
 - ❑ review recent OH advice (as appropriate);
 - ❑ consider opportunities to temporarily or permanently amend hours or duties;
 - ❑ consider opportunities to introduce other workplace adjustments;
 - ❑ the likely timescale within which the employee will return to work;
 - ❑ the next steps and potential outcomes if the employee's absence continues.

- 23.9 After each formal LTA – Review Meeting the manager will write to the employee summarising the main points covered during the discussion.
- 23.10 If the employee’s health is such that it does not appear likely that the employee will return to work in the near future; where ill health retirement might be a suitable option or where the Council requires more detailed guidance on how to respond to a particular medical condition, the employee may be referred to the Council’s Occupational Health Physician. Guidance on when this is appropriate is available from HR.
- 23.11 If, for health reasons, the employee can no longer undertake their substantive duties and where it is not reasonably practicable to make adjustments to their duties, consideration should be given to any opportunities for redeployment. See section 28.
- 23.12 During the formal reviews the option of ill health retirement may be discussed with the employee. Further information on ill health retirement can be found in section 26.
- 23.13 In certain exceptional circumstances, by mutual agreement, it may be appropriate to bring forward the LTA – Case Review Hearing without having first held at least two LTA Review Meetings, as outlined above. For example; where the employee has confirmed that they are not able to continue in their current role due to ill health, and where redeployment or ill health retirement is not available. Such situations are likely to be rare.

24.0 Return to work after long term absence

- 24.1 In the majority of cases employees will successfully return to work prior to their referral to a LTA – Case Review Hearing. Further information on supporting staff in their return to work is available in the Sickness Absence Management Guidance Notes.

24.2 Procedural matters

Following their return to work the manager is required to hold a Return to Work interview with the employee in line with the Policy and Procedure. The manager and employee may be well versed in the reasons for absence, but this informal discussion must take place. As this will happen very early in the employee’s return to work, it is an opportunity for the manager to have an initial discussion with the employee.

If the employee’s recent absence has resulted in them exceeding the Trigger Point it will be necessary for an Attendance Improvement Target to be set.

24.3 Repeated long term absences

- 24.3.1 Where an employee has had 2 or more periods of long term absence in the preceding 36 month period, they will automatically be referred to a Stage 3 - Capability Review Meeting.
- 24.3.2 At the Stage 3 – Capability Review Meeting the absences will be reviewed in detail and consideration will be given to how the employee can improve their attendance.
- 24.3.3 Automatic referral to a Stage 3 – Capability Review Meeting will not apply in the following situations:
- ❑ when the absence is connected to an underlying disability. However, an employee with a disability will be referred to a Stage 3 – Capability Review Meeting if the repeated long term absences are for a reason unconnected to their disability;
 - ❑ when the long term absences are directly caused by a life threatening illness;
 - ❑ where the employee has a work related injury which, after review by the Chief Officer (as per section 9), is confirmed as having been sustained through no fault of the employee.

25.0 Long Term Absence - Case Review Hearing

- 25.1 Where there is a reduced likelihood that the employee will return to work in the near future or where the employee's health means that they are no longer capable of undertaking their duties, the manager will refer them to a LTA – Case Review Hearing.
- 25.2 A LTA - Case Review Hearing will consider whether an employee is able to continue in employment and therefore all reasonable alternatives to retain the employee in work should be considered prior to referral to a Case Review Hearing.
- 25.3 Prior to referral to a LTA - Case Review Hearing, a minimum of two LTA Review Meetings will have taken place. It is likely that in the majority of cases there will be more than two Long Term Absence Review Meetings.
- 25.4 The over-riding factor in whether to hold a Case Review Hearing is, whether there is any realistic likelihood of the employee returning to work in the near future, having considered options to assist the employee to return to work. In some cases employees will be referred to a LTA - Case Review Hearing prior to them having reduced to half pay.
- 25.5 It is not a requirement of the Policy that an employee should have exhausted their entitlement to Occupational Sick Pay before their employment can be terminated.
- 25.6 Some employees may also have had previously high levels of short term absence and have been within the formal stages of the Short Term Absence process at the point that their long term absence commenced. Managers are obliged to take account of the employee's general levels of attendance when considering when to refer them to a LTA - Case Review Hearing. Where employees have had high levels of short term absence, these will also be considered during the LTA - Case Review Hearing.
- 25.7 A LTA - Case Review Hearing will take place as outlined in Appendix C. The employee will be given the opportunity to present their case and others involved in the employee's case, such as the line manager, will also be asked to provide information on what steps have been taken to improve the employee's attendance.
- 25.8 The Hearing Officer will also give consideration to the following when deciding on a course of action:
- how long the employee has been absent;
 - the nature of the incapacity;
 - the likelihood of a return to work in the near future;
 - 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;
 - financial and cost implications;
 - representations made by the employee and their representative;
 - what steps 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.

- 25.9 The above list is not exhaustive and the weight attached to each issue will depend upon the circumstances of the case. It is the responsibility of the Hearing Officer, in making a considered decision, to balance both the needs of the employee and the requirement for effective delivery of Council services.
- 25.10 Following due consideration of the information provided at the LTA - Case Review Hearing the Hearing Officer may consider any of the following actions:
- ❑ A period of review whilst the employee's absence continues to be supported/managed, before the convening of another LTA - Case Review Hearing;
 - ❑ Retirement on the grounds of ill health¹;
 - ❑ Dismissal on the grounds of incapability due to ill health.
- 25.11 If the Hearing Officer decides that dismissal is not appropriate, the Hearing Officer will define any further review periods, and what if any further support should be made available or considered. The Hearing Officer may determine that further LTA – Review Meetings should be held and/or that, after a defined time period, the employee's case should be referred back to a LTA – Case Review Hearing.
- The Hearing Officer will write to the employee within 5 working days (as outlined in section 15.4) setting out their decision, the points discussed, future actions and targets and the consequences of improvement targets not being met.
- 25.12 If the Hearing Officer concludes that the employee is to be dismissed the employee will be served with contractual notice and consideration may be given to the option of payment in lieu of notice. Contractual notice will be paid at full pay.
- 25.13 The principles that apply to the booking of leave during periods of sickness will also apply during notice periods. Employees who have been dismissed due to long term absence, will receive pay for any outstanding annual leave at the end of their notice period.
- 25.14 Normally the employee will be informed verbally of the outcome at the conclusion of the hearing, and the decision will be confirmed in writing within 5 working days. Where this is not possible, the employee will be advised of the decision in writing within 5 working days.
- 25.15 Where a decision is made to terminate employment, the employee will have the right of appeal against the decision as outlined in section 20.
- 25.16 Appeals against dismissal will be conducted in accordance with Appendix D.

26.0 Ill health retirement

- 26.1 Where an employee is no longer able to perform their duties and it is not possible to redeploy them into an alternative role, ill health retirement or dismissal will be considered.
- 26.2 Where an employee may be eligible for ill health retirement they will be referred to an Independent Physician, for an assessment of their health.
- 26.3 Where ill health retirement is being considered, HR will be able to provide general information on the ill health provisions within the Pension Scheme Regulations.

¹ Can only be considered if supported/recommended by an Occupational Health Physician

- 26.4 To qualify for ill health retirement the Pension Scheme requires that the employee is:
- permanently incapable of discharging the duties of their current employment, and
 - has a reduced likelihood of any gainful employment before normal retirement age.
- 26.5 Consideration must be given to the possibility of reasonable adjustments to the employee's substantive role and to the option of suitable alternative employment within the Council, before the Physician will be able to advise the Council that the employee is eligible for release of pension benefits.
- 26.6 The Physician will advise the Council of which of the 3 Tiers within the Pension Scheme Regulations the employee satisfies.
- 26.7 Employees also have the right of appeal against any decision to refuse ill health retirement benefits under the Local Government Pension Scheme Internal Dispute Resolution Procedure.

27.0 Reasonable Adjustments

- 27.1 The Council is required to consider making reasonable adjustments to assist employee's who have a disability as defined under the Equality Act 2010.
- 27.2 Adjustments may take a number of forms and may be temporary or permanent, including:
- the provision of practical aids or adaptations to premises or equipment;
 - reduction in working hours or changed working pattern;
 - amendment to duties.
- 27.3 The Council will give consideration to adjustments both from the perspective of the employee and also with due regard to the reasonableness of those adjustments from an operational point of view.
- 27.4 In many cases it will be possible to accommodate adjustments to some degree or other; however in some cases it may not be considered reasonable to accommodate all or some of those adjustments. Where this is the case the manager should be able to clearly explain their reasons for being unable to accommodate the adjustments.

28.0 Redeployment

- 28.1 Redeployment will only be considered when other options to return the employee back to their substantive role have been unsuccessful and where medical advice indicates that an employee is unable to perform the duties of their current role, with reasonable adjustments.
- 28.2 In some cases, OH will not be able to recommend redeployment, despite the employee being unable to return to their substantive post.
- 28.3 The aim of redeployment will be to find a suitable position that the employee can fulfil and where reasonable adjustments can be accommodated, if required.
- 28.4 Opportunities for redeployment are limited and these are dependent upon vacancies that exist in the organisation at the time that redeployment is being considered. This will include both permanent and fixed term vacancies. If an employee is offered and accepts

redeployment into a fixed term vacancy, as an alternative to the termination of employment, they will transfer from a permanent contract of employment to a fixed term contract of employment.

- 28.5 Where an employee is redeployed for health reasons, into a fixed term appointment, the normal arrangements for notice, redeployment and redundancy will apply to the employee at the end of the contract.
- 28.6 The employee will be placed on the redeployment list from the point that medical advice is received, which recommends the employee be considered for redeployment.
- 28.7 If no suitable redeployment opportunities are available and the employee is unable to return to their existing role, consideration will be given to referral to a LTA – Case Review Hearing.
- 28.8 It is required that employees, for whom redeployment has been recommended by OH, will be placed on the redeployment list for a minimum of 4 weeks prior to a LTA – Case Review Hearing.
- 28.9 If an employee on the redeployment list is subsequently dismissed from their substantive post, they will remain on the redeployment list for the duration of their notice period to give them the maximum opportunity to secure alternative employment within the Council.

29.0 Annual leave and sickness absence

- 29.1 Employees continue to accrue annual leave during sickness absence. However, where a period of long term absence straddles two leave years only the statutory element of annual leave will transfer to the next leave year.
- 29.2 Holidays taken during a period of sickness will be treated as such and the appropriate deduction will be made from the holiday balance.
- 29.3 An employee who falls sick during the course of annual leave is required to report it to their manager on the first day of absence in accordance with Council procedure and remain in regular contact with their manager in line with normal reporting arrangements. It will also be necessary to provide a medical certificate, or equivalent if outside the U.K. and the employee will only be regarded as absent due to sickness from the date of that certificate.
- 29.4 Where an employee is receiving sick pay under the sickness scheme, sick pay should continue if a public, extra statutory or extra local holiday falls during such sickness absence. No substitute public, extra statutory or extra local holiday will be given.
- 29.5 Further information is available in the Sickness Absence Management Guidance Notes.

30.0 Employees on probation

- 30.1 Employees who are subject to probation are not covered by the provisions of the Sickness Absence Management Policy and Procedure, except for those relating to sick pay, notification and certification arrangements.
- 30.2 Return to Work interviews must be carried out following any absences and Absence Indicator Points calculated.
- 30.3 Whilst many of the arrangements within the Policy and Procedure do not apply to employees on probation, managers must ensure that new employees understand the

importance of good attendance and the requirements for prompt and proper notification of absence.

- 30.4 The purpose of probation is to allow new staff opportunity to demonstrate their suitability for employment with Lancaster City Council. Good attendance is central to demonstrating an employee's suitability for the role and their ability to fulfil their contract of employment.
- 30.5 It is expected that staff on probation will have excellent levels of attendance in order to effectively demonstrate their commitment to the Council and their suitability for the role.
- 30.6 Managers will have due regard for levels of attendance when deciding whether or not to confirm the appointment of an employee on probation.

31.0 Other Provisions

Where an employee is re-employed within a 12 month period, any absences that they had in the last 12 months, whilst previously employed by the Council, will be counted towards their Absence Indicator Points.

32.0 Review

This policy will be reviewed 2 years after implementation or earlier in the event of further changes in legislation.

Amendments which are required due to a change to any applicable legislation or regulation will be incorporated into the policy documents at the appropriate time and reported for information to the recognised trade unions and Personnel Committee.

Document Control:

Version No.	Effective date	Reason	Review due
1.0	October 1998	New policy document	
2.0	08.04.2003	Revisions agreed by Personnel Committee	
3.0	July 2004	Revisions agreed by Personnel Committee	
4.0	February 2006	Revisions agreed by Personnel Committee	
5.0	01.09.2012	Revisions agreed by Personnel Committee	
6.0	02.02.2016	Revisions to be considered by JCC & Personnel Committee	

How to calculate Absence Indicator Points

Absence Indicator Points are calculated using the following equation:

$$\text{Actual periods of absence}^2 \times \text{Total number of days lost.}$$

Example 1

Mr A, who works 5 days per week, has 1 period of absence for 42 days in a rolling 12-month period. Mr A's Trigger Point is 60 points.

Mr A's Absence Indicator Points would be calculated as;

$$1 \text{ period of absence} \times 1 \text{ period of absence} \times 42 \text{ days absence} = 42 \text{ points}$$

Does not exceed Trigger Point – no formal action required.

Example 2

Mr B, who works 3 days per week, has 2 periods of absence totalling 7 days in a rolling 12-month period. Mr B's pro-rated Trigger Point is 36 points.

Mr B's Absence Indicator Points would be calculated as;

$$2 \text{ periods of absence} \times 2 \text{ periods of absence} \times 7 \text{ days absence} = 28 \text{ points}$$

Does not exceed Trigger Point – no formal action required.

Example 3

Mrs C, who works 4 days a week, has 3 periods of absence totalling 6 days in a rolling 12-month period. Mrs C's pro-rated Trigger Point is 48 points.

Mrs C's Absence Indicator Points would be calculated as;

$$3 \text{ periods of absence} \times 3 \text{ periods of absence} \times 6 \text{ days absence} = 54 \text{ points}$$

Exceeds Trigger Point – first formal absence meeting required.

Example 4

Miss D, who works 5 days per week, has 2 periods of absence totalling 20 days in a rolling 12-month period. Miss D's Trigger Point is 60 points.

Miss D's Absence Indicator Points would be calculated as;

$$2 \text{ periods of absence} \times 2 \text{ periods of absence} \times 20 \text{ days absence} = 80 \text{ points}$$

Exceed Trigger Point – first formal absence meeting required.

Sickness Absence Management Policy and Procedure

Conducting an Appeal Hearing **(excluding appeals against dismissal)**

1. The Appeal will be heard by a manager of the same level or more senior level than the original Hearing Officer, and this may be a manager from another service unit.
2. The Appeal Hearing Officer, 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 original outcome was reasonable in the circumstances.
3. A member of the HR Team will attend the Hearing to provide support and guidance to the Appeal 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.

4. The Appeal Hearing Officer will ask the employee to confirm;
 - ❑ their grounds for appeal;
 - ❑ that they are aware of the right to be accompanied at the Hearing.
5. The Appeal Hearing Officer will explain the format of the Appeal Hearing, which will normally be as follows:
 - ❑ the Appeal 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 Appeal Hearing will be adjourned and the Appeal Hearing Officer will make their decision.

6. The management side will present their case, detailing the steps that were followed in reaching the original decision. The management side will also outline the matters that were considered in reaching a decision on the level of Attendance Improvement Target and review period.
7. The employee and representative will present their case, outlining why they consider the Attendance Improvement Target and/or review period were inappropriate in the circumstances and/or why they consider the decision was unfair. This will include an explanation of their reasons for absence and any mitigating factors that they wish the Appeal Hearing Officer to consider.
8. Once the Appeal Hearing Officer and HR adviser have completed their questions the Appeal Hearing Officer will ask both sides to summarise their cases in the following order:
 - ❑ management side;
 - ❑ employee side.
9. The Appeal Hearing Officer will adjourn the Appeal 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 Appeal Hearing Officer is considering their decision.
10. The Appeal Hearing Officer may, if they wish, request that the Appeal Hearing is temporarily reconvened to ask further questions, before adjourning again.
11. The Appeal Hearing Officer will consider all the facts of the case and have due regard to whether the actions of the original Hearing Officer were appropriate in the circumstances and whether the Sickness Absence Management Policy and Procedure was followed by the manager.
12. If the Appeals Hearing Officer decides to uphold the original decision they must be satisfied that:
 - ❑ the manager has followed the steps outlined in the Sickness Absence Management Policy and Procedure, and
 - ❑ the level of Attendance Improvement Target and/or the length of the review period were in line with the Policy and Procedure and were appropriate in the circumstances.
13. If the Appeals Hearing Officer decides to overturn the original decision they must be satisfied that the manager has either:
 - ❑ set an Attendance Improvement Target and/or length of review period that were not in line with the Policy and Procedure and were not appropriate in the circumstances, and/or;
 - ❑ has failed to follow the steps outlined in the Sickness Absence Management Policy and Procedure.
14. Once the Appeals Hearing Officer has had opportunity to consider the case the Appeal Hearing will be reconvened. Both the management side and the employee's side will return to the Appeal Hearing to hear the outcome.
15. If the Appeal Hearing Officer is not able to make a decision on the day of the Appeal Hearing, they must inform both sides that they will be advised of the decision in writing within 5 working days.
16. If the Appeal Hearing Officer makes their decision, on the day of the hearing, they will verbally advise all parties of the decision. The Appeal Hearing Officer will confirm that the decision will be provided in writing within 5 working days.

17. If the Appeals Hearing Officer decides to uphold the original decision the employee will be advised of this and the Attendance Improvement Target and review period will remain in place as previously advised.
18. If a decision is taken to overturn all or part of the original decision, the Appeals Hearing Officer will advise the original Hearing Officer to re-examine the Attendance Improvement Target and/or review period. In the event that the Appeals Hearing Officer considers that the Sickness Absence Management Policy and Procedure was not duly followed, they will require the Hearing Officer to revisit the original process and remedy any errors and omissions.
19. The Appeal Hearing Officer will write to the employee within 5 working days of the decision outlining their decision. Their letter will include:
 - ❑ the date and time of the Hearing;
 - ❑ confirmation of those present;
 - ❑ the decision and any actions arising from that decision;
 - ❑ that there is no further right of appeal against the Appeal Hearing Officers decision.

Sickness Absence Management Policy and Procedure

Conducting a Stage 4 – Case Review Hearing or a Long Term Absence – Case Review Hearing

1. The Hearing Officer, who will be a Chief Officer, 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.

Sickness Absence Management Policy and Procedure

Conducting an Appeal Hearing against dismissal

1. Personnel Committee, sitting as the Appeals Panel, will hear the appeal against dismissal.
2. The Appeal Hearing will not be a full rehearing of the case, but will consider whether the decision to dismiss was reasonable.
3. The Appeals Panel will be advised by the HR & OD Manager or other nominated officer.

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

The Chief Officer, who dismissed the appellant, will present the management case and may be accompanied by a member of the HR Team or another manager.

4. The Chairperson of the Appeals Panel will:
 - ❑ direct and control the conduct of the hearing with fairness and impartiality;
 - ❑ ask the appellant to confirm that they understand the nature of and reason for the Hearing;
 - ❑ ask the appellant to confirm their grounds for appeal;
 - ❑ ask the appellant to confirm that they are aware of the right to be accompanied at the Hearing;
 - ❑ ask both sides to confirm if they will be calling witnesses.
5. The Chairperson will explain the format of the hearing, which will normally be as follows:
 - ❑ the Chairperson, other members of the Appeal Panel and accompanying HR adviser may ask questions of either side throughout the Appeal Hearing;
 - ❑ the management case will be presented first;
 - ❑ the management side may call witnesses;
 - ❑ after each witness has given their evidence they may be questioned by the appellant (and representative), after which the management side may re-examine the witness;
 - ❑ following presentation of the management case the appellant (and representative) may question the management side;
 - ❑ the appellant (and representative) will present their case;
 - ❑ the appellant (and representative) may call witnesses;
 - ❑ after each witness has given their evidence they may be questioned by the management side, after which the appellant (and representative) may re-examine the witness;

- following presentation of the appellant's case the management side may question the appellant.
 - both sides will be asked to summarise the main points of their case; management side first and the employee (and representative) second;
 - the Appeal Hearing will be adjourned and the Appeals Panel will make their decision.
6. The management side will present their case, detailing the evidence that was taken into account and the matters that were considered when reaching the decision to dismiss the appellant.
 7. The appellant (and representative) will present their case, explaining in detail the specific grounds for their appeal.
 8. Following the presentation of both cases, and the completion of questioning by the Appeals Panel, the Chairperson will ask both sides to summarise their cases in the following order:
 - management side
 - employee side
 9. The Chairperson 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 Appeals Panel considers their decision.
 10. The Appeals Panel may ask the Hearing to be temporarily reconvened to ask further questions, before adjourning again.
 11. The Appeals Panel may decide that further evidence is required before a decision can be reached. If this is the case, the Appeals Panel will temporarily reconvene the Hearing to advise both sides that further evidence is required and that the Hearing will be reconvened at a date in the future, when the evidence is available. Any new evidence will be presented in line with the format of the hearing as at section 5.
 12. The Appeals Panel will consider the case and will decide whether to:
 - overturn the dismissal and reinstate the appellant in their post,
 - or
 - uphold the Chief Officer's decision to dismiss.

If the Appeals Panel concludes that reinstatement is appropriate, they must advise what further arrangements should be put in place to monitor the appellant's absences and improve their attendance.

13. If the Appeals Panel is able to reach a decision on the day of the Hearing, both sides will be asked to return to the Hearing and the Chairperson will verbally advise both sides of the decision. The Chairperson will confirm that the decision will be provided in writing within 5 working days.
14. If the Appeals Panel is not able to make a decision on the day of the Hearing, the Chairperson must inform both sides that they will be advised of the decision in writing within 5 working days.
15. If the decision is taken to uphold the original decision to terminate employment, the written confirmation from the Appeal Panel must include the following:

- ❑ the date and time of the Hearing;
- ❑ confirmation of those present;
- ❑ the decision to uphold the original decision to terminate the employment;
- ❑ confirmation of the notice period to be served and the last day of service;
- ❑ details of why the Appeal Panel reached the decision;
- ❑ confirmation that the decision is final and binding and there is no further right of appeal to the Council.

16. If a decision is taken to reinstate the appellant, the written confirmation from the Appeal Panel must include:

- ❑ the date and time of the Hearing;
- ❑ confirmation of those present;
- ❑ the decision to uphold the appeal and therefore reinstate the appellant;
- ❑ details of the future review period(s);
- ❑ any expectations placed on the appellant, 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 appellant 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.