EMPLOYMENT MATTERS COMMITTEE

20 NOVEMBER 2013

REVIEW OF MANAGING SICKNESS ABSENCE POLICY

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Summary

The report seeks agreement to the revised Managing Sickness Absence Policy

1. Budget and Policy Framework

1.1 The Policy lies within the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

2. Background

2.1 On 29 June 2011 the Employment Matters Committee agreed a revised Managing Sickness Absence Policy. At that time it was agreed that the policy would be reviewed on a bi-annual basis.

3. Advice and analysis

3.1 The policy that was agreed by Members in 2011 contained a number of changes in the council's approach to managing sickness absence (minute no.135/06/2011 refers). The policy has worked well but on review it has been decided to ask the Committee to approve a further revised policy.

3.2 The Council's sickness absence rates have traditionally been lower than the national average for the public sector. Sickness absence rates since 2008 have seen a gradual decrease until 2011 and then a minor increase as shown in the table below. The revised policy being recommended to Members with this report will enhance the changes made previously and will allow for more flexible management of sickness absence cases when it is required.

Year	Average number of sickness days lost
2008/9	8.17 days
2009/10	7.66 days
2010/11	7.35 days

2011/12	7.43 days
2012/13	7.44 days

3.3 The proposed changes are a direct result of feedback from managers during training sessions delivered by the Employee Relations Team on how to manage sickness absence and from the Disabled Workers' Forum and trade union colleagues on individual cases.

3.4 A practical tool kit for managers can be found on the council's intranet site and this provides managers with operational guidance, letters and templates.

3.5 Changes to current policy and rationale

The main changes to the current policy are:

(i) Sickness absence triggers - These have been revised to give more flexibility and to enable a more supportive approach to staff when managing short term sickness absence.

The present triggers are:

- three occasions of absence during a six month period
- more than five days sickness, during a six-month period
- patterns of short term absence which have been identified over the past 6 months i.e. weekend shifts / days of the week.

The proposed triggers are:

- 3 separate occasions in any 3 month period
- 6 days or more in any 6 month period (only when absence is on more than one occasion)
- 5 separate occasions in a 12 month period
- Any other pattern of absence that causes concern to the manager.

(ii) New sections on gender re-assignment and cosmetic/plastic surgery - These are new to the policy following requests from managers to have written advice on these issues.

(iii) Sickness whilst on Annual Leave (AL) - employees can self certify for the first 7 days in order to claim back statutory AL. A fit note is still required to claim back contractual AL. This has been updated. At present, there is no provision for self certification for the first 7 days in order to claim back statutory AL.

(iv) Informal stage introduced to managing short term sickness absence - in order to give managers and staff flexibility to resolve absence issues in a supportive way before the need to invoke the formal.

(v) Long term sickness absence - Review meeting to support employees on long term sick leave.

(vi) Out of service ill health retirement requests – the requirement for the ex employee to pay for the ill health referral has been removed. The Council will cover the cost of the Occupational Health referral, in accordance with advice from KCC Pensions Team.

(vii) Termination of services on ill health grounds - in the event of termination, the notice period to be extended should the employee secure a 4 week trial period through the redeployment pool. This will provide the maximum opportunity for redeployment to avoid dismissal on grounds of ill health.

4. Consultation

4.1 Consultation has been comprehensive involving the trade unions, the staff forums and a selection of managers.

4.2 Suggestions have been taken on board in the proposed policy wherever appropriate. However, the following comments were also received and the responses from HR are set out underneath each comment.

a) Sickness is often an indicator of stress or poor management. Would HR have a defined role in monitoring service/department/directorate levels in a way that triggers a need for discussion with managers, particularly when taken in conjunction with leaver rates? (Sections 5.5.0 and 8.4.0)

Response: The HR Business Partners already do this with the Directorate Management Teams

b) What about regular reports being copied to Unions so that levels can be monitored jointly? (Section 5.6.0)

Response: It has been agreed to copy the trade unions in to the monthly analysis of sickness absence.

c) Observation made that the short term sickness absence trigger 3 days in 3 month period has been reduced from 6 months. (Section 8.2.0)

Response: Point noted

d) Return to work meetings – can we make sure that this happens before commencement of work on the first day? (Section 11.0)

Response: Every effort will be made to ensure this happens but it cannot always be guaranteed.

e) In Appendix 1 – Process for reporting sickness absence, it states “The employee must contact the line manager or designated person by the time as specified by the manager on the first day of sickness to say why they are absent and when they hope to return to work unless there are exceptional circumstances preventing this”.

TU request definite scope on times as it is felt that this could be open to abuse by unrealistic targets

Response: This is not possible as start times vary from service to service and in some services, the employee will need to contact their manager before the shift starts to ensure cover can be arranged. HR are not aware of any "abuse" in relation to this requirement. This is no change from the current policy.

f) In Appendix 1 it states "The employee must contact their line manager or designated person on the first day of uncertified absence and if still unwell, contact them again on the third day, unless it is agreed during the first conversation that this is not necessary"

TU are not in agreement as it feels that making contact on third day could be interpreted as harassment

Response: Managers need to know the extent of the employee's absence so they can cover the service. HR are not aware of any alleged harassment in relation to this requirement. This is no change from the current policy.

g) Needs a clear definition of sickness and duration. And the difference between sickness and planned treatment, e.g. hospital appointments, dental appointments etc.

Response: It is not considered necessary to have further definition. Absence for hospital and dental appointments is covered in Section 9.6.0.

h) In the same appendix, it states "Upon return to work, where practicable, the line manager should meet the employee who has been absent, even if the absence has been for half a day. The level of investigation (informal/formal) to be undertaken at a return to work interview will be dependent on individual circumstances and whether any of the triggers have been met."

Does this apply even for planned treatment appointments?

Response: It will depend upon the type of planned treatment.

5. Risk Management

5.1 It is important that all staff are made aware of this policy and their responsibilities within it.

5.2 Failing to implement the policy in a fair and consistent manner may result in successful legal challenges.

5.3 Failing to adhere to the Council's responsibilities under the Equality Act 2010 could pose a legal challenge at employment tribunal.

5.4 It is therefore necessary for the new policy, included at Appendix 1 to the report, to be promoted throughout the council and training provided to managers.

6. Diversity Impact Assessment (DIA)

6.1 A Diversity Impact screening has been undertaken and it is considered that a full DIA is not required. This is included at Appendix 2 to the report.

6.2 There are minimal concerns that the implementation of this policy will marginalise any particular minority group. There are two issues to note arising from the DIA screening:

(i) Disability -the policy highlights the organisations responsibilities in relation to making reasonable adjustments for those employees who have declared a disability or become disabled during their working life and also provides guidance on finding further support.

(ii) Age - with the removal of the default retirement age there is potential for the organisation to be employing older workers who may develop ill-health or disability as they get older. The council will monitor any trends relating to age and sickness and put into place mechanisms for appropriate management and support.

7. Financial and legal implications

7.1 It is not envisaged that there will be any additional financial implications with the implementation of this policy.

7.2 Implementation of this policy enables the Council to comply with its various statutory obligations. Implementation of the policy is within the council's powers. In the application of this policy it is essential that a fair and consistent approach be to be applied to all staff in order to minimise successful legal challenges. The council must ensure that in the application of the policy due regard must be given to all relevant legislation and in particular the Equality Act 2010 and The Employment Rights Act 1996.

8. Recommendation

8.1 That the Employment Matters Committee approves the revised Managing Sickness Absence Policy as set out in Appendix one to the report.

8.2 That this policy is reviewed in two years time and any proposed changes are referred to this Committee.

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Background papers
Employment Matters Committee 29 June 2011

Appendix 1

Medway Council
Managing Sickness Absence Policy
November 2013

Table of contents

Section	Page number
Introduction	3
Equalities Statement	3
Core Values and Council Objectives	3
Scope	3
Roles and Responsibilities	3 - 5
Care First	5
Absence Monitoring	5
Absence Triggers	6
Psychological Illnesses	6
Disability related sickness absence	6
Maternity related sickness absence	7
Industrial injury related sickness absence	7
Sickness caused by infectious disease	7
Gender Reassignment Absence	7
Appointments at the GP, Dentist, Hospital	8
Cosmetic/Plastic Surgery	8
Sickness Absence whilst on leave	8
Sickness monitoring and statutory annual leave	8
Medical Exclusion	9
Differences of Medical Opinion	9
Sick leave and pay entitlement	9
Occupational Sick Pay	10
Stopping Occupational Sick pay	10
Suspension of Sick Pay	10
Return to work interview	10
Managing Short Term Absence	11
a) Informal stage	11
b) Stage 1	12
c) Stage 2	12
d) Stage 3	13
Managing Long Term Absence	14
Referral to Occupational Health	14
Employee unable to return to their normal duties due to a disability	15
Phased return to work	15
Employees not fit to return to work	15
Retirement on the grounds of ill-health	15
Out of service applications	15
Termination of employment on the grounds of ill-health	16
Final Review Meeting Process	17
Right of Appeal	17
Appendix 1 – Process for reporting sickness absence	19
Appendix 2 – Supporting an employee who becomes disabled	21

Medway Council Managing Sickness Absence Policy

1.0 Introduction

1.1 The Council believes that employee well being at work is fundamental to the delivery of quality services to the public.

1.2 Both the Council and Trade Unions recognise that prevention is better than cure and that employee well being at work is a shared priority for all involved.

2.0 Equalities Statement

2.1 Medway Council is committed to providing equal opportunities and access to all. This policy embraces the spirit of managing a diverse workforce and those managing and dealing with sickness matters must ensure that no employee is discriminated against either directly or indirectly, harassed or victimised on the grounds of their race, disability, sex, sexual orientation, religion or belief, age, marital or civil partnership status or any stage of gender reassignment or any prohibited ground.

3.0 Core Values and council objectives

3.1 This policy supports the council's Core Values. The council believes that a consistent approach to employee management and well-being is fundamental to the delivery of quality services to the public.

4.0 Scope

4.1 This policy applies to all staff except schools based staff, centrally employed teachers who are covered by the School Teachers Pay and Conditions Document, all staff employed at short stay schools, previously known as Pupil Referral Units, the Chief Executive and The Section 151 Monitoring Officer*.*

5.0 Roles and Responsibilities

5.1 Managing sickness absence is one of the line manager's key roles. Every manager has a responsibility to manage sickness absence in a way that safeguards the interests of the council's resources, service provision and employees.

5.2 This procedure aims to ensure that all employees are treated consistently and fairly. By giving managers the tools and the opportunity to deal with potential absence problems at an early stage so that longer-term problems may be prevented.

5.3.0 **Employee responsibilities**

5.3.1 Employees responsibilities are to:

- familiarise themselves with this policy,
- ensure they comply with the reporting absence procedures as set out in appendix one or other reporting process as communicated by the Director; and
- understand that failure to adhere to the procedures or following their line managers instructions in relation to their absence may result in disciplinary action and/or suspension of sick pay.

5.4.0 **Line manager responsibilities**

5.4.1 Line managers responsibilities are to:

- monitor and report all sickness absence;
- ensure that return to work interviews and subsequent formal meetings are undertaken;
- ensure that these procedures are applied consistently and fairly taking into account individual circumstances;
- ensure that all staff are made aware of this policy and that they follow the requirements of sickness absence notification procedures;
- encourage and support employees to maintain good attendance, through good management practice and use of other appropriate services;
- ensure that all employees are aware of the council's confidential employee assistance provider Care first (see paragraph six) and
  undertake a stress risk assessment for their team and review once a year.

5.5.0 **HR Services responsibilities**

5.5.1 HR Services responsibilities are to:

- Provide line managers with the tools to be able to manage sickness absence effectively including training and up-to-date management information;
- Provide line managers with specialist advice on implementing this policy and procedures;
- Support line managers when referring employees to the Occupational Health Adviser, and
- Implement and review this policy on a bi-annual basis.

5.6.0 **Management and Trade Unions**

5.6.1 Management and the Trade Unions will work collaboratively in the interests of the wellbeing of employees by:

- Co-operating and working together in the implementation of this policy;
- Attending the Corporate Health and Safety Committee to discuss issues and monitor employee well being; and
- To take and act upon advice from the Health and Safety Executive.

6.0 Care first – Support for employees and managers

6.1 The council has a confidential employee assistance provider to support employees and managers.

6.2.0 **Care first support for employees**

6.2.1 Employees and members of their immediate household can contact Care first 24/7, 365 days per year to discuss any issue that may be concerning them. Care first will advise whether counselling is required.

6.2.2 Line managers can make a referral to Care first providing they have the employee's express permission to do so.

6.3.0 **Care first support for managers**

6.3.1 It is appreciated that dealing with sickness cases and managing sickness absence can sometimes be daunting for line managers, in particular dealing with sensitive or embarrassing issues. This can lead to delays in dealing with the absence issue which may exacerbate any problems that could easily be "nipped in the bud". Guidance and support on how to approach employees and undertake meetings such as return to work interviews or formal review meetings is available from Care first who will talk managers through the best way to approach a difficult or sensitive subject.

6.3.2 Care first can be contacted on telephone number 0800 174319 or by emailing counsellingformedwaycouncil@care-first.co.uk

7.0 Sickness absence monitoring

7.1 Effective sickness absence monitoring is essential for the early detection of problems including welfare and work-related problems. Earlier identification of issues and intervention can lead to speedier management, medical or individual responses.

8.0 Absence triggers

8.1 Absence triggers aim to ensure a consistent approach to managing sickness absence is maintained throughout the council. The absence triggers are detailed below:

8.2.0 **SHORT TERM sickness absence triggers**

Number of occasions	Time Frame
3 separate occasions	In any 3 month period
6 days or more	In a six month period (only when absence is on more than 1 occasion)
5 separate occasions	In a 12 month period
Any other pattern of absence that causes concern to the manager	Examples may include illness on the same day of the week, at a particular time of year, preceding or following annual leave

8.2.1 When any of these triggers are met the line manager will normally follow the process for managing short term sickness absence as set out in paragraph 12.

8.3 **LONG TERM sickness absence triggers**

- four continuous weeks

8.4.0 **Psychological illnesses such as stress and depression**

- In cases of stress, depression or another psychological illness, managers should contact the employee in the second week of absence to arrange to meet to consider a referral to the Occupational Health Adviser straight away.
- In any cases of stress, depression or another psychological illness being given as the reason for absence managers must ensure a more in-depth return to work meeting is held, a stress risk assessment is undertaken and consider a referral to the Occupational Health Adviser.

9.0. **Disability related sickness absence**

9.1.2 Where absence could be disability related, employees must be appropriately treated within the context of the Equality Act 2010. This legislation provides legal protection against discrimination for disabled people and the Council's obligations in dealing with disability related absences Managers should seek advice from hradvice@medway.gov.uk (telephone 01634 334499) if they are in any doubt about managing disability related sickness.

9.1.3 Disability-related absences will be recorded as sickness absence and flagged as disability-related (in order that disability and non-disability related absences can be identified separately in order for appropriate consideration to be given to disability related absences as part of the council's duties to make reasonable adjustments)

9.2.0 **Maternity related sickness absence**

9.2.1 Employees should not be discriminated against as a result of maternity related sickness. Maternity related sickness absence during protected periods must not be taken into account as grounds for subsequent dismissal. The protected period is from notification of inception of pregnancy to the end of the woman's maternity leave.

9.2.2 Illnesses, which are related to pregnancy, should be dealt with through this procedure. Any pregnancy related sickness after the beginning of the 4th week before her Expected Week of Childbirth (EWC), will automatically start her maternity leave. Any sickness before the 4th week of the EWC will be treated as sickness absence.

9.2.3 A risk assessment should be undertaken by the manager once they have been notified in writing that the employee is pregnant, has given birth in the previous six months or is breast-feeding. Further details can be found in the council's Maternity Policy.

9.3.0 **Industrial injury related sickness absence**

9.3.1 Where absence is as a result of an industrial injury then Medway Council's Accident and Incident Reporting and Investigation Policy must be followed.

9.3.2 Any employee who is absent due to an injury sustained in the performance of their contractual duties and without them being at fault shall be paid in accordance with normal sickness absence.

9.3.3 An employee who is absent as a result of an accident where damages may be receivable from a third party, will be paid Occupational Sickness Pay subject to the employee undertaking to refund to the authority the total amount of Occupational Sick Pay or a proportion of it from the damages received from a third party in respect of such an accident.

9.4.0 **Sickness caused by infectious disease**

9.4.1 An employee who is prevented from attending work because of contact with an infectious disease shall be entitled to receive normal pay. The period of absence on this account shall not be reckoned against the employee's entitlements under the occupational sick pay scheme.

9.5.0 **Gender Reassignment Absence**

Medway Council is committed to being a fair and inclusive employer and will not discriminate against an employee who has or who is undergoing gender re-assignment.

Transsexual employees may need a number of different medical interventions which require absence from work. Such absence is covered by the Equality Act 2010 and the council will not treat a person absent because of gender reassignment less

favourably than they would treat an employee who is absent due to sickness, injury or absent for some other reason.,

9.6.0 **Absence for appointments at the GP, dentist, hospital etc**

9.6.1 Employees should be encouraged to arrange for appointments to take place outside of normal working hours or failing that at the beginning or end of the day. Where this is not possible, employees should arrange appointments so that the time away from work is kept to a minimum. Managers need to ensure that this is not abused.

9.6.2 Absence for half or more than half of the employee's normal working day should be recorded as sickness absence.

9.6.3 Special consideration should be given to employees who attend appointments for reasons relating to a disability in which case Paras 9.7.1 and 9.7.2 may not apply as these appointments may be considered to be a reasonable adjustment. Line Managers in any doubt should speak to hradvice@medway.gov.uk (telephone 01634 334499) for assistance.

9.7 Cosmetic/Plastic Surgery

9.7.1 Where plastic/cosmetic surgery is certified by a medical practitioner indicating that surgery is essential to the employee's health or well being then this would be a valid reason for an employee to receive sick pay.

9.7.2 If surgery is carried out and is not certified by a medical practitioner and absence from work is required then arrangements for annual leave and/or unpaid leave (where approved) must be made in advance.

9.8.0 **Sickness absence whilst on leave**

9.8.1 In the event of an employee falling sick during the period of annual leave, for the purposes of reclaiming statutory annual leave, an employee can self-certify for the first seven days of sickness absence, from the eighth day of absence a fit note is required. However, to reclaim contractual annual leave that is provided in excess of statutory annual leave, the employee is required to provide a fit note to cover the whole period of absence (any costs to be met by the employee)

9.8.2 Any sick leave taken during a period of planned annual leave will still be managed within the normal sickness management procedures, which may in certain cases require further investigation into the sickness absence.

9.8.3 Every reasonable effort should be made by the employee to report sickness absence whilst on leave as soon as practicable to their line manager.

9.9.0 **Sickness monitoring and statutory annual leave**

9.9.1 A break in long term sickness absence for taking statutory annual leave does not trigger a new period of sickness absence in terms of monitoring. Paid statutory holiday entitlement accrues during sickness absence regardless of how long an

employee is off sick. Employees are therefore able to take paid statutory annual leave while on sick leave.

9.9.2 Employees accrue and can request to take paid statutory annual leave whilst on long term sick leave. Employees whose employment terminates after a period of long term sick leave will be paid in lieu of the statutory leave that they would otherwise have carried forward or lost.

9.10.0 **Medical Exclusion**

9.10.1 If an employee's condition is considered to be a health and safety risk either to themselves or to other staff they should be suspended from work on medical grounds. The suspension will be on full pay. Line Managers should seek the support of their Assistant Director and advice from employeerelations@medway.gov.uk before taking this action.

9.10.2 An employee who is medically suspended would normally have been referred to the occupational health service or would be in the process of being referred for a medical opinion.

9.10.3 The employee will be advised to visit their GP in this circumstance to ascertain the doctors' opinion on their state of health. If the doctor agrees that the employee should not be in work, the employee should send the medical statement to their manager. The medical suspension will cease from the date of the medical statement.

9.10.4 For cases of suspected drug or alcohol abuse managers should refer to the Drugs and Alcohol Misuse Policy.

9.10.5 There may be occasions when the medical advice received from the GP or Occupational Health Adviser cannot be practically implemented. In such cases the manager has the authority to suspend on medical grounds, subject to consultation with their assistant Director and the Employee Relations Team.

9.11.0 **Differences of Medical Opinion**

9.11.1 On rare occasions, there may be a difference of medical opinion between the employee's GP and the Occupational Health Physician. The opinion of the Occupational Health Physician takes precedence.

10.0 Sick leave and pay entitlement

10.1 The rate of sick pay and the period for which sick leave shall be paid in respect of absence due to ill health, will be calculated on a 12 month rolling basis. It is not necessary for an employee's contractual sick leave entitlement to be exhausted before invoking the ill health capability procedure. If a line manager is considering this action, the Employee Relations team in HR Services must be consulted. Further details of sick leave and sick pay entitlement are contained on the council's intranet. In exceptional circumstances, Directors can extend sick pay.

10.2.0 **Occupational Sick Pay**

10.2.1 Occupational sick pay is paid in line with the terms and conditions of employment and subject to the conditions contained in this policy.

10.3.0 **Stopping Occupational Sick Pay**

10.3.1 Sick pay may be stopped if employees fail to comply with the statutory sick pay requirements such as the provision of a medical statement.

10.3.2 When making a decision to stop sick pay the manager must first speak to a member of the Employee Relations Team. The manager must make it clear, in writing, giving one week's notice of stopping sick pay to the employee:

a) - the circumstances that are leading the manager to come to the decision;
b) - the date that the pay will be stopped.

10.4.0 **Suspension of Sick Pay**

10.4.1 The payment of any occupational sick pay under the scheme may be suspended if the line manager is of the opinion that the condition which has led to the employees' absence from work is due to any of the following circumstances:

- abuse of the sickness absence policy
- absence on account of sickness due or attributable to deliberate conduct prejudicial to recovery
- the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account for private gain or for another employer

10.4.2 Where a decision to suspend sick pay has been made the line manager must advise the employee (in writing) their reason/s for suspending sick pay. The employee shall have a right to make representation to a more senior manager regarding the decision. If it is decided that the grounds were justified the employee shall forfeit the right to any further payment in respect of that period of absence.

10.4.3 Abuse of the sickness scheme should be dealt with under the disciplinary procedure.

11.0 Return to Work Interview

11.1 Following any period of sickness absence, the line manager will meet informally with the employee to discuss their sickness absence.

11.2 The purpose of the meeting should be;

- to welcome back and to discuss whether there needs to be a phased return, amendments to hours or any workplace adjustments;
- to ensure full recovery and to give the opportunity for the employee to share any underlying problems; and
  to ensure they complete the necessary return to work payroll notification form and that the employee has provided a fit note if appropriate.

12.0 Managing short term sickness absence

12.1 The early and successful management of short-term absence is essential to good working conditions. Responsibility lies with the manager to manage this process in a consistent and appropriate manner.

12.2.1 To ensure that a complete picture of absence is available, comprehensive sickness records must be kept for monitoring purposes.

12.3.1 The line manager may arrange for the employee to be referred to the Occupational Health Adviser in order to seek advice including whether there is any underlying cause for the short-term absence.

12.4 Managers should review absence levels with an employee where a pattern or level of absence has emerged which causes concern and/or the absence triggers as set out in paragraph 8.0 have been met.

12.5 In these instances an informal review meeting should be held between the line manager and the employee to discuss the manager's concerns. At this meeting the employee should be provided with a copy of this policy. During the informal stage the employee will be expected to improve their level of attendance. The level of attendance required will be confirmed to the employee in writing and the employee informed that failure to reach this required attendance within a specified timescale could lead to dismissal.

12.7.0 **Informal Stage**

Early concerns about the level of an employee's absence should be raised at an appropriate meeting e.g. supervision and return to work meetings. Members of staff are often unaware of how much absence they have had, and bringing it to their attention, along with a discussion about factors that could be affecting their health can lead to an early resolution to the problem. It is important to let the employee know that if the level of absence continues a formal approach will be adopted, which could result in the employee's eventual dismissal. Managers should seek to identify whether there could be any underlying medical conditions which could amount to a disability.

Where the absence triggers have been met the employee will be monitored informally over the next 6 weeks. If there is no improvement, or if absence levels increase either during the 6 week monitoring period or if there are concerns regarding their attendance within the next 12 months, then a Stage One formal review meeting will be held between the line manager and the employee to discuss the managers concerns. The manager should keep confidential records of these discussions.

As this is an informal meeting, there is no requirement at this stage for the right to be accompanied by a union representative or work place colleague.

12.7.1 **STAGE ONE - Formal Meeting One**

12.7.2 The purpose of the meeting is to discuss the situation with the employee in a supportive way, to establish whether the absences from work are related and to agree with the employee the best way forward. The employee should be asked if they wish to be accompanied by a Trade Union representative or a workplace colleague at the meeting. In exceptional circumstances a member of HR Services may be asked to attend if the matter is particularly complex.

12.7.3 By the end of the meeting, the manager would be expected to have a real understanding of the problem and any workplace issues that are affecting the employee's ability to attend work and determine reasonable ways of assisting the employee in reducing his/her sickness absence and/or making a successful return to work. The decision of the meeting should be recorded and a copy of the record be given to the employee to avoid any confusion. In situations where the manager is unable to fully understand the problem a further referral to Occupational Health will be appropriate.

12.7.4 Unrelated periods of absence - If the reasons given for the absences appear to be unrelated and the level of absence and/or frequency and pattern is causing concern the line manager should try and identify through discussion with the individual if there are other problems of a domestic or work nature that may be affecting their attendance. If there are any work issues affecting attendance, the manager has a responsibility to make every effort to resolve these and to involve the employee in their effective resolution. A date should be set in 6 weeks time to review the position at a Stage Two formal review meeting.

12.7.5 Where an employee has met a short term sickness absence trigger, the line manager must review the need for a referral to the Occupational Health Adviser. Action taken to refer to the Occupational Health Adviser must be appropriate to the nature of the absence. Guidance on when this is appropriate is available from hradvice@medway.gov.uk (telephone 01634 334499).

12.8.0 **STAGE TWO - Formal review meeting**

12.8.1 The purpose of this meeting is to review the situation.

12.8.2 An exception to this would be where medical advice indicates that the employee will not be able to return to their role or a suitable alternative role, and where there are no reasonable adjustments that would enable them to return. A Final Review meeting will be convened.

12.9.0 **Outcome from Stage Two**

12.9.1 The outcome will be either an improvement or failure to improve.

The following explains the next steps that need to be taken in either circumstance:

12.10.0 **The level of absence has improved**

12.10.1 If the level of attendance has improved sufficiently this should be recognised and a further review organised for 6 weeks time. If after that further review, there is no ongoing concern, then no further action is required. A record of this decision should be made and shared with the employee and placed on the employees' personal record for 12 months.

12.10.2 Line managers should make it clear to the employee however that should there be further concerns regarding their attendance within the next 12 months consideration would be given to re-starting the review process at Stage Two. Line Managers should explain that should their level of absence persist after a final 6 week review period a Final Review meeting will be convened and that this could result in their employment with the council being terminated on medical grounds.

12.11.0 **The level of absence has not improved sufficiently**

12.11.1 If the level of attendance has not improved sufficiently a further review should be organised for 6 weeks time. If after that further review, there is still ongoing concerns, the process will move to the final Stage Three review meeting.

If the level of attendance improves sufficiently refer to (12.10.1) and (12.10.2) above.

At this stage managers should ensure that they have exhausted all options available that might enable the employee to reach an acceptable level of attendance and where:

- the level of short term absence remains unacceptable, and/or
- the steps taken at the Informal Stage, Review Stages One and Two have not secured the required improvement.

12.11.2 In which case the line manager should explain that the result of the Final Review meeting could result in their employment with the council being terminated on medical grounds.

13.0 STAGE THREE – Final Review Meeting

13.1 Where all options have been considered during the informal stage, and Stages One and Two of the formal process, the manager should recommend to a more senior manager that a Final Review meeting is convened. The employee will be informed of this recommendation in writing. Up to date Occupational Health advice will be sought before the Final Review Meeting.

13.2 The outcome of the Final Review Meeting will be:

- further support and monitoring
- a written absence caution to remain on the employees personal file for 24 months, which would be referred to in cases of future sickness absence or
- termination of employment on medical grounds.

14.0 Managing long term sickness absence

14.1 When an employee is on sick leave for a period of time it is important that the line manager and employee keeps in regular contact in order that the individual is supported and does not feel isolated and also that an accurate picture of the circumstances can be maintained. There is also an obligation on the part of the employee to keep their manager updated with regard to their health situation.

14.2.1 Once an employee has been absent through sickness for 4 weeks or where the absence is expected to be over 4 weeks the line manger will conduct an absence review meeting.

At the meeting the line manager will discuss with the employee their continuing absence, including any support that the council can offer to aid their recovery and/or adjustments that can be made to ensure their future employment with the council and/or a timely phased return to work. It is advisable to hold the meeting on a work site however a home visit may be appropriate.

Review meetings should be repeated throughout the period of absence, the number and frequency will be dependant on the circumstances of each case. However, the first of these meetings will normally take place soon after the first 4 weeks of absence, or upon confirmation that the employee is expected to be absent for 4 weeks or more; and where there is no specific return date imminent.

14.3.0 **Referral to the Occupational Health Adviser**

14.3.1 A referral can be made by the line manager to the Occupational Health Adviser at any point during the period of sickness for a medical opinion on the employee's fitness to carry out their duties and advice on how to facilitate an early return to work wherever possible. This will normally be where the employee has been off sick for a continuous period of four weeks or in cases of stress, depression and other similar conditions during the second week of absence (i.e. where they have met the triggers for further action).

14.3.2 Action taken to refer to the Occupational Health Adviser must be appropriate to the nature of the absence. If in any doubt managers should speak to hradvice@medway.gov.uk (telephone 01634 334499) for further guidance.

14.3.3 On some occasions, and with the express permission of the employee it may be appropriate for the Occupational Health Adviser to undertake a referral to Care first.

14.4.0 **Employees unable to return to their normal duties due to a disability**

14.4.1 If an employee becomes disabled as a result of illness, reasonable adaptations must be considered under The Equality Act 2010. See appendix two for further details regarding reasonable adjustments.

14.4.2 Access to Work funding may be available to assist with reasonable adjustments required in the workplace. Whilst the council is not obliged to create a new position for an employee, if there is work available which might be considered suitable, taking into account the individual's capabilities, they should be considered for this. The council's Redeployment Procedure gives details of how redeployment to an alternative post would be managed.

14.4.3 No decision to terminate the employee's contract should be taken without firstly consulting HR Services' Employee Relations Team (employeerelations@medway.gov.uk).

14.5.0 **Phased returns to work**

14.5.1 In some circumstances, the Occupational Health Adviser or the employee's GP may advise that a phased return to work is appropriate for employees returning from a period of long term sickness absence. This will enable the employee to gradually build up their working hours and/or days and settle back into their normal working pattern.

14.5.2 Timescales for phased returns to work will be discussed in advance and medical advice sought from occupational health/GP to determine when the employee will be able to return to their normal working hours and/or days. During the initial period of a phased return, the employee will be paid their normal contractual salary.

14.5.3 If a phased return extends beyond four working weeks then the employee will be paid on the basis of hours actually worked or may request already accrued annual leave to make up any time that they are not at work.

14.6.0 **Employees not fit to return to work**

14.6.1 In cases of long term absence where the employee is not expected to be fit to return to work within a reasonable timescale, and where any steps taken to secure a successful return to work have been unsuccessful the manager should discuss this with the employee and move to a final review meeting.

15.0 Retirement on the grounds of ill-health

15.1 In those circumstances where employees cannot return to work on grounds of ill health or be found suitable alternative employment, they may be eligible for retirement on ill-health grounds.

15.2 Where practicable this avenue will be explored before a final review meeting takes place, providing the medical information received thus far indicates that the employee may be incapable of returning to work for the foreseeable future.

15.3 In order to apply, the employee must have a certificate of ill health from occupational health confirming they are permanently incapacitated or unable to carry out their employment duties.

16.0 Out of service applications for ill health retirement

16.1 HR Services will process a referral to Occupational Health on behalf of the ex-employee, in order for occupational health to confirm permanent incapacity and issue a permanent incapacity certificate. In order to do this, occupational health may need to: -

- conduct an independent medical assessment
- contact the ex-employee's GP
- contact the ex-employees treating specialist

16.2 The Local Authority will agree to meet the cost of such a referral. Once the confirmation is received from occupational health, the employee will be sent a Retirement Declaration Form by HR Services to complete and return.

16.3 Once this is received the Employee Relations Adviser (HR Services) will forward all the paperwork, including the occupational health letter and permanent incapacity certificate to the Local Government Pension scheme on behalf of the ex-employee.

17.0 Termination of employment on grounds of ill health

17.1 Any decision to terminate the employment on medical grounds will be dealt with in accordance with the following process.

17.2 The Final Review Meeting should be convened to discuss the situation once it is established that:

- an employee is medically unfit for their duties as confirmed by the Occupational Health Adviser, or
- there is no identified resolution to their sickness which is not sustainable, due to its impact on the provision of the service, or
- the procedure for managing short term absence has been followed and there has been no improvement in attendance at the end of the review period nor further evidence of a health problem has come to light;
- No reasonable adjustment is possible or any adjustments which have been put in place have failed.

17.3 If the Occupational Health Adviser determines that the employee will not be able to return to their normal duties, suitable alternatives within the council must be considered via the redeployment service. The final review meeting may be arranged whilst the employee is in the redeployment pool this will not delay the final review meeting from taking place, however in the event of dismissal due to ill health should suitable alternative employment be identified during the notice period the employee's notice period will be extended to give the employee the opportunity to undertake a 4 week trial, should the trial period be successful the notice will be rescinded.

18.0 Final Review Meeting process

18.1 The Final Review meeting shall be conducted by a Senior Officer and they will be accompanied by an Employee Relations Consultant. The employee will be notified in writing at least ten working days ahead of the meeting and will have the right to be accompanied by a trade union representative or work place colleague. The employee is required to provide the panel with any documentation they will be relying on at least five working days in advance of the meeting.

18.2 Long-term ill health can be a fair reason for terminating an employee's contract of employment. An employee who is absent from work due to ill-health, where there is an underlying medical condition, can be fairly dismissed provided that fair and reasonable steps are taken.

18.2 Where an employee is dismissed they should be issued with appropriate notice and the right of appeal.

18.3 The employee will be notified in writing of the outcome and their right of appeal, normally within five working days of the decision.

19.0 Right of Appeal

19.1 The right to appeal against termination of employment on the grounds of ill health is to a Member panel. Appeals must be lodged with the Assistant Director, Organisational Services within ten working days of the date of receipt of the letter notifying the outcome of the formal meeting, stating the grounds for the appeal.

19.2 The appeal will be heard as soon as possible.

19.3 The appeal panel's decision will be final.

20.0 Monitoring and review

20.1 The application of this policy will be monitored and a formally reviewed on a bi-annual basis.

20.2 **Diversity Impact Assessment**

20.3 A Diversity Impact Assessment will be undertaken at each review.

21.0 Relevant Legislation

Employment Rights Act 1996
Equality Act 2010
Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (SI 2010/137)

22.0 Table

Subject/Title	
Date agreed by Employment Matters Committee	
Team responsible for policy	Employee Relations Team
Date of Review:	
Toolkit updated by:	

Process for reporting sickness absence

Appendix 1

This process is to be followed unless an alternative reporting process has been agreed and communicated to employees by the Director.

The employee must contact the line manager or designated person by the time as specified by the manager on the first day of sickness to say why they are absent and when they hope to return to work unless there are exceptional circumstances preventing this.

Notification must be by telephone. Emails and text messages are unacceptable unless there are exceptional circumstances preventing this e.g. due to a disability covered under the Equality Act 2010.

It is unacceptable for notification to be given to anyone other than the line manager or designated person. Should they be unavailable at the time of telephoning, a message should be left with details of the reason for absence, likely return date and what work needs to be covered. A contact number must also be left so that the manager or designated person can contact the employee personally unless there are exceptional circumstances preventing this.

The employee must contact in person, it is unacceptable for an employees' relative or friend to contact the line manager on their behalf unless there are exceptional circumstances preventing this.

The employee must contact their line manager or designated person on the first day of uncertified absence and if still unwell, contact them again on the third day, unless it is agreed during the first conversation that this is not necessary.

If the absence continues or is expected to continue to last for eight calendar days or more including weekends and rest days (for both full time and part time employees), the employee must contact their doctor in order that they be certified unfit for work or fit for some work. Once the statement has been seen by the line manager it must be forwarded, without delay to HR Services, Payroll Operations team.

In cases where the absence has lasted eight calendar days or more, a GP can, when making their assessment, suggest way of helping an employee get back to work. The options represent common ways to aid a return to work, these are:

- Phased return to work
- Altered hours
- Amended duties
- Workplace adaptations

Where an employee is returning to work following sickness absence they should only return to work if:

a. their medical statement has expired or;

b. they have express agreement from their manager(following consultation with HR services) to return prior to the end of their medical statement, and

c. they have spoken with their line manager about any advice that may have been given by their GP or occupational health.

The appropriate and timely notification to payroll must be made by the manager for periods of sickness absence.

Failure to adhere to the above may result in disciplinary action and/or the suspension of sick pay.

If the absence continues to last for eight days then the Absence due to Sickness Form must be forwarded to the HR Services Payroll team by the line manager on behalf of the employee. Upon return the employee must also complete an Absence due to Sickness Form to notify the Payroll team of the last day of sickness.

The Line manager's signature on the Absence due to Sickness Form does not vouch for the genuineness of the sickness absence. Where there are concerns advice should be sought from HR Services where appropriate.

NOTE: It should be noted that, for sick pay purposes, if a weekend falls either in the middle or at the end of a period of sickness absence, Saturday and Sunday are counted in the total number of days leave taken.

Upon return to work, where practicable, the line manager should meet the employee who has been absent, even if the absence has been for half a day. The level of investigation (informal/formal) to be undertaken at a return to work interview will be dependent on individual circumstances and whether any of the triggers have been met.

Supporting an employee who becomes disabled

Making reasonable adjustments

Under the Equality Act 2010, disabled employees are protected against discriminatory treatment that occurs for a reason related to their disability. One of the key duties under the Act for employers is to make reasonable adjustments to working arrangements, working practices and premises.

Reasonable Adjustments

Should an existing employee become disabled an employer can help practically by considering what reasonable adjustments could be made to accommodate the employee's needs and ensure they are successfully retained in employment. The employee may have suggestions, which you should of course consider, but it remains your responsibility to identify and implement any adjustments. An employee may also need counselling or other advice and information, Care First, can provide these services on 0800 174319.

Some examples of these reasonable adjustments include in no particular order:

- **altering premises,** e.g. widening a doorway, providing a ramp, stair-climbing chairs or non-slip flooring, moving furniture, altering lighting, or providing parking spaces for drivers with disabilities.

- **allocating some duties to another employee,** within the working environment.

- **transferring the person to fill an existing vacancy via the redeployment process,** e.g. if an employee becomes disabled and there is no reasonable adjustment which can enable them to continue in their post they might be considered for another suitable post. The Redeployment Policy can be obtained from hradvice@medway.gov.uk (telephone 01634 334499).

- **altering working hours,** e.g. allowing an employee who becomes disabled to work part-time or to job share or use the flexi-time scheme in a more creative way.

- **changing the person's place of work.**

- **allowing absences during working hours for rehabilitation, assessment or treatment,** e.g. allowing an employee who becomes disabled time off during work to receive physiotherapy or other treatment.

- **supplying additional training,** e.g. training in the use of particular pieces of equipment unique to the disabled person.

- **Acquiring or making changes to equipment,** e.g. a visible fire alarm system, an adapted telephone, a specific software package etc.

- **providing a reader or signer,** e.g. reading information to a visually impaired person at particular times during the working day.

- When planning changes to buildings or practices, management should, as a matter of good practice, consider the possible needs of new employees with disabilities, impairments or long term health conditions and existing employees who may develop them in the future.

Access to work programme (AtW)

Access to Work can provide advice and practical support to disabled people and their employers to help overcome work related obstacles resulting from a disability. AtW can also agree to pay a grant, through Jobcentre Plus (Dept for Work and Pensions), towards extra employment costs resulting from a disability. This can help pay for special equipment or alterations to existing equipment to suit particular work needs arising from a disability or alterations to premises or working environment, if needed because of disability.

Further information about this programme can be requested by contacting the local representative of AtW on 01273 364761 or by visiting www.jobcentreplus.com or www.gov.uk/access-to-work/how-to-claim

Employee Support

Care first, the council's confidential employee assistance provider can be contacted by the employee for support. With the employee's permission line managers may also contact Care First on their behalf.

Care first can provide counselling to employees and members of their immediate household. They can also provide advice via their information line on a wide range of subjects including benefits, housing and health.

Care first are contactable on freephone number 0800 174319 24/7, 365 days per year or by emailing cousellingformedway.co.uk.

Disabled Workers Forum (DWF)

The Disabled Workers Forum is run by a group of staff who have disabilities and meet on a regular basis to discuss issues and provide support to each other. The DWF also provide valuable input in policy creation by giving the benefit of their experiences and knowledge. Any member of staff who has a disability is able to attend forum meetings providing they notify their line manager in good time for cover to be arranged if necessary

The DWF can be contacted by email dwf@medway.gov.uk

Mindful Employer

The MINDFUL EMPLOYER® is an initiative which is aimed to increasing awareness of mental health, such as Stress, depression and anxiety at work and providing support for businesses in recruiting and retaining staff.
For further information please go on their website www.mindfulemployer.net
They can also be contacted by telephone on 01392 677064 or via email: info@mindfulemployer.net

Appendix 2 - Diversity Impact Assessment: Screening Form

<table>
<tr><td>Directorate

Business Support Department</td><td colspan="2">Name of Policy

Management of Sickness Absence</td></tr>
<tr><td>Officer responsible for assessment

Tricia Palmer, Assistant Director, Organisational Services</td><td>Date of assessment

31 September 2013</td><td>New or existing?

Existing</td></tr>
<tr><td colspan="3">Defining what is being assessed</td></tr>
<tr><td>1. Briefly describe the purpose and objectives</td><td colspan="2">To review the current policy (previously agreed June 2011)</td></tr>
<tr><td>2. Who is intended to benefit, and in what way?</td><td colspan="2">The council will benefit by reduced sickness absence costs;
Managers will benefit by having a leaner step-by-step process for managing short term absence.
Employees will benefit by having access to support when needed and will also benefit from managers consistently applying the process.</td></tr>
<tr><td>2. What outcomes are wanted?</td><td colspan="2">• reduction in number of sick days lost
• reduction in sick pay costs
• policy applied consistently across the council</td></tr>
<tr><td>4. What factors/forces could contribute to or detract from the outcomes?</td><td>Contribute
- Commitment to the policy from everyone at all levels of the organisation.
- Staff and managers being aware of their responsibilities as outlined within the policy.
- Good communication of the new policy to all employees.
- Effective monitoring data;
- Effective training for managers;
- Consistent application of the policy.</td><td>Detract
- inconsistent approach to managing sickness absence;
- failure to keep accurate records of sickness absence;
- lack of promotion of policy at implementation stage.</td></tr>
<tr><td>5. Who are the main stakeholders?</td><td colspan="2">The council, managers and employees</td></tr>
<tr><td>6. Who implements this and who is responsible?</td><td colspan="2">HR Services implements this policy, Tricia Palmer, Assistant Director, Organisational Services.</td></tr>
</table>

Appendix 2 - Diversity Impact Assessment: Screening Form

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to *ethnicity/ racial groups*?	**No**	
What evidence exists for this?	The policy has been shared with the Black Workers Forum members and no concerns have been raised. The policy has been shared with the Trade Unions and no concerns have been raised.	
8. Are there concerns that there <u>could</u> be a differential impact due to *disability*?	**No**	
What evidence exists for this?	The policy has been shared with the Disabled Workers Forum members and the points raised have been taken on board. The policy highlights the organisation's responsibilities in relation to making reasonable adjustments for those employees who have declared a disability or become disabled during their working life and also provides guidance on finding further support.	
9. Are there concerns that there <u>could</u> be a differential impact due to *gender*?	**No**	
What evidence exists for this?	The policy has been shared with the trade unions, staff forums, and a selection of managers and no issues relating to gender were identified.	
10. Are there concerns there <u>could</u> be a differential impact due to *sexual orientation*?	**No**	
What evidence exists for this?	The policy has been shared with the trade unions, all staff forums including the LGBT forum, and a selection of managers and no issues relating to sexual orientation were identified.	
11. Are there concerns there <u>could</u> be a have a differential impact due to *religion/belief*?	**No**	
What evidence exists for this?	The policy has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to religion or belief were identified.	
12. Are there concerns there <u>could</u> be a differential impact due to *age*?	**No**	

Appendix 2 - Diversity Impact Assessment: Screening Form

What evidence exists for this?	The policy has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to age were identified. With the removal of the default retirement age there is potential for the organisation to be employing older workers who may develop ill-health or disability as they get older. The council will monitor any trends relating to age and sickness and put into place mechanisms for appropriate management and support.	
13. Are there concerns that there <u>could</u> be a differential impact due to *being trans-gendered or transsexual*?		
	No	
What evidence exists for this?	The policy has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to those undertaking the transgender process or those living as a transexual were identified.	
14. Are there any *other groups* that would find it difficult to access/make use of the policy, or who might experience unfavourable treatment (eg people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?		
	No	
What evidence exists for this?	The policy has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to any of these categories were identified.	
15. Are there concerns there <u>could</u> be a differential impact due to *multiple discriminations* (eg disability <u>and</u> age)?		
	No	
What evidence exists for this?	The policy has been shared with the trade unions, all staff forums, and a selection of managers and no issues relating to multiple discriminations were identified.	

Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	**No**	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	**No**	

Appendix 2 - Diversity Impact Assessment: Screening Form

Recommendation to proceed to a full impact assessment?		
No	~~This policy complies with the requirements of the legislation and there is evidence to show this is the case.~~	
NO, BUT …	**What is required to ensure this complies with the requirements of the legislation?** (see DIA Guidance Notes)	The Equality Act 2010 applies to the sickness policy in relation to managing those with disabilities. The policy provides guidance on managing staff who are either already disabled or become disabled.
~~YES~~	~~Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)~~	N/A

Action plan to make minor modifications		
Outcome	**Actions (with date of completion)**	**Officer responsible**
Staff involved in reviewing the policy	Continual monitor and review	Employee relations team

Planning ahead: Reminders for the next review			
Date of next review	November 2015		
Areas to check at next review (eg new census information, new legislation due)	Legislation changes. Monitoring for the Equality Duty, establish trends etc		
Is there *another group* (eg new communities) that is relevant and ought to be considered next time?	N/A		
Signed (Assistant Director)		**Date** **22 October 2013**	