

EMPLOYMENT MATTERS COMMITTEE

29 JUNE 2011

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 14 October 2008 the Employment Matters Committee agreed the 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 2008 was a complete re-write and contained a number of significant changes in the council's approach to managing sickness absence (minute no. 374/10/2008 refers). The main change was the clarification of the short-term and long-term sickness absence triggers. Members also agreed that in most cases of psychological illness such as stress or depression an immediate referral to occupational health should be undertaken.
- 3.2 The council's sickness absence rates have traditionally been lower than the national average for the public sector. Sickness absence rates since the introduction of the revised policy in 2008 have seen a gradual decrease as shown in the table below which is positive news. The revised policy being recommended to Members with this report will enhance the changes made previously and will allow for a more speedier 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
20010/11	7.35 days

- 3.3 HR Services is adopting a more flexible approach to its policy development by removing the detailed process from the policy document resulting in a more succinct document outlining the main principles, responsibilities and legal obligations. This will enable line managers to people manage within less rigid parameters whilst at the same time remaining within the law.
- 3.4 A practical tool kit for managers to be found on the council's intranet site will provide managers with operational guidance, letters etc.
- 3.5 Changes to current policy and rationale

The main proposed changes to the current policy (Appendix A) are:

- (i) removal of the Stage three review meeting – this is the most significant change that has been made. By removing this stage in the process both the council and the employee will benefit as a protracted formal process would contribute to a more stressful situation for the employee and would not help the line manager in terms of managing the service.
- (ii) define pay for phased returns

A phased return to work enables an employee who is returning from a long term period of sickness absence to gradually build up their working hours and/or days and settle back into their normal working pattern.

The current Managing Sickness Absence Policy allows for phased returns to work but does not elaborate on how employees would be paid for the time they are not at work. In practice this has led to employees returning to work from sick leave on a phased basis for an extended period in some cases and receiving full pay. There may however be exceptional circumstances where it may be necessary to allow an employee to receive full pay during a phased return to work.

The revised policy defines the amount of pay an employee will receive in these circumstances and restricts full contractual pay to a four week period. If a phased return extends beyond the 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.

(iii) incorporates the requirements of the Equality Act 2010; and increases the awareness of reasonable adjustments that could be made when an employee becomes disabled.

3.6 Developments to improve sickness absence

3.6.1 Since the Managing Sickness Absence Policy was last presented to Members in 2008 there have been a number of positive developments to support the process.

(i) On-Site qualified Occupational Health Adviser

In October 2010 the council changed its occupational health provider and also changed the way occupational health was delivered. With the new contract the council moved away from an expensive doctor-led service to the provision of on-site Occupational Health Adviser based at Gun Wharf. This provision allows for a much speedier turn around time for medical referrals and advice. As a consequence this enables managers to deal with sickness issues more quickly and thus enable an employees' speedier return to work. This also helps managers deal with short-term sickness absences in a more proactive way by giving them access to a health professional for ad hoc general advice as well as formal referrals.

It is too soon to determine whether the introduction of the new service has reduced sickness absence levels but feedback from managers is that the much faster turn-around-time of appointments and receiving the management advice helps greatly with the management of sickness cases.

The cost of the new service is also much reduced as mentioned later in the report in paragraph 7.

(ii) Selfserve4you

The Selfserve4you software which is currently being introduced on a phased basis will enable managers to keep up-to-date sickness records and monitor their own staff sickness absence without needing to wait for monthly reports from HR Services. This enables managers to deal with absence issues much quicker and identify and deal with any absence trends that may be developing. The manager will also be able to record the outcomes of formal review meetings on this system.

(iii) Developments within the Regeneration Community and Culture Directorate

The Regeneration Community and Culture Directorate will be working in partnership with Diagnostic Health Solutions (DHS) for a 12 months pilot which will commence on 1 July 2011. DHS will provide a nurse led support centre which is staffed by fully qualified nurses, offering 24-hour health information and advice.

During the pilot period there will be changes to the reporting processes for employees working within the directorate. When staff are ill and unable to work, they will contact DHS direct. A nurse will ask them some questions about their illness. From the information provided, the nurse will then give advice on getting better. If the nurse believes the individual may benefit from additional medical attention, the nurse may recommend a visit to a GP, to speak to their line manager about an occupational health referral and/or other health specialists.

After the call, DHS will contact the line manager to notify them of the individual's absence and maintain contact with the individual until they return to work. Managers will also have on-going support and access to real-time information relating to their staff's sickness absence.

- 3.7 HR Services will communicate the policy changes to the workforce and ensure that managers are appropriately briefed and trained in the revised arrangements.

4. Consultation

- 4.1 Consultation has been comprehensive involving the Trade Unions, the staff forums and a selection of managers.
- 4.2 Comments received included:
- 4.3 The Disabled Workers Forum highlighted the requirement for disability related sickness absence to be recorded separately. In response to this the forum have been reassured that this is contained within the new policy at para. 9.2.2.
- 4.4 UNISON submitted a number of comments relating to their concerns and these have all been responded to. Some of their more significant concerns related to the following issues.
- 4.5 The Trade Unions:
- (i) Expressed the need for management training in relation to both management of sickness absence and responsibilities under the Equality Act 2010. The unions have been advised that this will be undertaken following the implementation of this policy. There is also corporate training available on a regular basis relating to the Equality Act 2010.
 - (ii) Expressed their concerns that the absence triggers for both short and long term absence were too short. The employer response to this concern is that the triggers are good management practice and provide a framework for a consistent approach across the authority. Individual circumstances would be taken into account when needed.
 - (iii) believed that the policy did not lend itself to supporting those employees with developing mental health issues. The employer response was to advise that the council is now working with the

Mindful Employer organisation to help raise awareness of mental health issues. Following a recommendation from the Mindful Employer the draft policy includes the need for stress risk assessments to be undertaken as part of the line managers responsibilities. The DWF will also be helping to raise awareness of mental health issues as part of their work.

- (iv) Sought clarification on time off for hospital appointments. It has now been made explicit in the policy that hospital appointments are to be dealt with the same as visits to the doctors, dentists etc.
- (v) Said that they could not accept paragraph 9.10.1 that gives priority of the opinion of the occupational health adviser over advice issued by employees' GP when there is a difference of opinion. The employer response was to note the unions concerns but would not concede to the unions' request to remove.
- (vi) Sought clarification of the circumstances when a manager can suspend an employee on medical grounds when they cannot practically implement advice for adjustments received by either the GP or the occupational health adviser. The employer has provided such clarification.
- (vii) Asked for employees who were off sick and approaching nil pay or half pay to be sent notification of this prior to the action being taken. Normal payroll practice is for notification to be made one month in advance.
- (viii) Asked for the phased return cut off date for full pay to be extended to six weeks as opposed to the four weeks as stated within the policy. The unions have been advised that four weeks will remain in order as this is believed to be a reasonable period of time and should encourage employees back to their normal working hours.

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 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 (Appendix B).
- 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. Data captured for the 2009/10 Workforce profile shows that older employees took more sickness absence than their younger colleagues. 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. The new contract relating to the implementation of the on-site Occupational Health Adviser has significantly reduced the cost of management referrals as the service is no longer a physician led service.
- 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 is 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 A to the report.
- 8.2 That officers review the Managing Sickness Absence Policy bi-annually and report to Members when necessary with any changes.

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Background Papers

Medway Council Workforce Monitoring Report 2009/10

Equality Act 2010

**Medway Council
Managing Sickness Absence Policy
(June 2011)**



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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, harrassed 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 managers 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 longer-term problems may be prevented.

5.3 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 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
- to undertake stress risk assessments for their team at least once a year or when required (advice on how to undertake a stress risk assessment is available from the intranet site).

5.5 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 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 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 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 SHORT TERM sickness absence triggers

- 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

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 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.

8.4.1 When any of the triggers in paragraphs 8.2 and 8.3 are met the line manager will normally follow the process for managing long term sickness absence as set out in paragraph 14. Managers in any doubt should contact hradvice@medway.gov.uk (telephone 01634 334499) for further guidance.

9.0 Special considerations

9.1 Confidentiality

9.1.1 Managers should stress to their staff that medical information about them will be treated in confidence and that any breach of confidentiality will be regarded as serious and potentially as a disciplinary matter.

9.2 Disability related sickness absence

9.2.1 Where absence could be disability related, employees are 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.

9.2.2 Sickness absence relating to disability should be recorded separately as this, could be regarded as a as a reasonable adjustment. hradvice@medway.gov.uk would be able to provide you with advice on this..

9.3 Maternity related sickness absence

9.3.1 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.

9.3.2 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.

9.3.3 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.

9.4 Industrial injury related sickness absence

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

9.4.2 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.

9.4.3 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.

9.5 Sickness caused by infectious disease

9.5.1 An employee who is prevented from attending work because of contact with 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.

9.6 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 9.61 and 9.62 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 Sickness absence whilst on leave

9.7.1 In the event of an employee falling sick during the period of annual leave, they will be regarded as being sick from the date of their doctor's fit note (any costs to be met by the employee) and further annual leave shall be suspended from that date and for the duration of the fit note. If no fit note is produced annual leave will stand. Every reasonable effort should be made by the employee to report their sickness absence as soon as practicable to their line manager.

9.8 Sickness monitoring and statutory annual leave

9.8.1 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 Medical Suspension

9.9.1 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 on medical grounds. The suspension will be on full pay. Line Managers in any doubt should seek advice from employeerelations@medway.gov.uk before taking this action.

9.9.2 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.

9.9.3 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.

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

9.9.5 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.

9.10 Differences of Medical Opinion

9.10.1 On rare occasions, there may be a difference of medical opinion between the employee's GP and the Occupational Health Adviser. The opinion of the Occupational Health Adviser 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 sick leave entitlement to be exhausted before termination of employment on medical grounds can be implemented. 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.

10.2 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 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 fit note.

10.3.2 When making a decision to stop pay the manager must first speak to the HR Services Employee Relations Team. The manager must make it clear, in writing, giving two weeks 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 suspended.

10.4 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 the sickness scheme;
- 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;
- some other substantial reason as discussed with the HR Services Employee Relations team.

10.4.2 Where suspension of sick pay is required the line manager must advise (in writing) the employee of the grounds for suspension and the employee shall have a right of appeal to a more senior manager. 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.

10.5 Sick pay and statutory annual leave

10.5.1 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.

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

12.3 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 more formally 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 a Stage One formal 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 formal 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.

12.6 In extreme cases a Stage Three final review meeting will be convened without going through Stages One and Two.

12.7 Steps to be followed

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 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 two months time to review the position at a Stage Two formal review meeting.

12.7.5 Where an employee has taken three or more periods of sickness absence within a six month period, the line manager must automatically 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 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 Stage Three final review meeting will be convened.

12.9 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 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 two months 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 two month review period a Stage Three final review meeting will be convened and that this could result in their employment with the council being terminated on medical grounds.

12.11 The level of absence has not improved sufficiently

12.11.1 The process will move to the final Stage Three review meeting in cases where the manager has 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 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 Stage Three 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 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 Outcomes of the Final Review Meeting will result in either:

- a written warning to remain on the employees personal file for 24 months, 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 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 Long-term ill health can be a fair reason for terminating an employee's contract of employment. The legal background is that an employee who is absent from work due to ill-health, where there is an underlying medical condition, may be fairly dismissed provided that fair and reasonable steps are taken.

14.3 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 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 Phased returns to work

14.5.1 In some circumstances, the Occupational Health Adviser 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 to determine when the employee will be able to return to their normal working hours and/or days. The employee should submit a fit note confirming that they are fit to return to work. 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 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 Stage Three.

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 This avenue will be explored before a formal 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

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 not meet the cost of such a referral and the member will be asked to sign an agreement to meet the costs. 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. This will be before the Stage 3 final review meeting is convened..

18.0 Final Review Meeting process

18.1 The Final Review meeting shall be conducted by an Authorised Officer (see appendix three for guidance on Authority to act) 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 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:	June 2013
Toolkit updated by:	

Process for reporting sickness absence

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

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

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Authority to act under the Management of Sickness Absence Policy

Ill health capability affecting	Meetings at Stages 1 and 2	Stage 3 Formal Hearing	Appeal
Director	Chief Executive	Panel of 3 Members	Panel of 3 Members not previously involved in case
Assistant Director	Director	Director not previously involved in case	Panel of 3 Members
Service Manager	Assistant Director	Assistant Director not previously involved in case	Panel of 3 Members
All employees except those listed above	Line Manager	Service Manager	Panel of 3 Members

Appendix B: Diversity Impact Assessment: Screening Form

Management of Sickness Absence Policy

Directorate Business Support Department	Name of Policy Management of Sickness Absence	
Officer responsible for assessment Tricia Palmer, Assistant Director, Organisational Services	Date of assessment 31 May 2011	New or existing? Existing
Defining what is being assessed		
1. Briefly describe the purpose and objectives	To review the current policy (previously agreed October 2008) with a view to incorporating the requirements of the Equality Act 2010 and for providing a swifter process for managing sickness absence.	
2. Who is intended to benefit, and in what way?	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.	
2. What outcomes are wanted?	<ul style="list-style-type: none"> • reduction in number of sick days lost • reduction in sick pay costs • policy applied consistently across the council 	
4. What factors/forces could contribute to or detract from the outcomes?	Contribute <ul style="list-style-type: none"> - 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. 	Detract <ul style="list-style-type: none"> - inconsistent approach to managing sickness absence; - failure to keep accurate records of sickness absence; - lack of promotion of policy at implementation stage.
5. Who are the main stakeholders?	The council, managers and employees	
6. Who implements this and who is responsible?	HR Services implements this policy, Tricia Palmer, Assistant Director, Organisational Services.	

Appendix B: Diversity Impact Assessment: Screening Form

Management of Sickness Absence Policy

Assessing impact	
7. Are there concerns that there <u>could</u> be a differential impact due to <i>ethnicity/ racial groups</i> ?	
	No
What evidence exists for this?	<p>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.</p> <p>From 2009 sickness absence monitoring included ethnicity (see table 1, appendix 1) .This revealed a marginally higher level of average sickness within the black/black British grouping. However it should be noted that due to the smaller number of employees in this group (1.35 per cent) the data could be distorted by the small numbers and one or two long term sickness cases would account for the difference. It is therefore not considered a concern but this will be monitored to see whether there are any developing trends.</p>
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i> ?	
	No
What evidence exists for this?	<p>The policy has been shared with the Disabled Workers Forum members. Forum members were pleased to see that reference to reasonable adjustments had been given a higher profile within the policy. Forum members required confirmation that disability related sickness would be recorded separately under this policy. This was confirmed. Sickness breakdown figures from the Workforce Monitoring report 2009/10 (see Table 2, appendix 1) indicates a higher level of absence for employees declaring a disability as opposed to the rest of the workforce. However, the data could be distorted by the small number of employees involved and the fact that some employees with a disability will require more time off work due to their disability. This is an acceptable reasonable adjustment under the Equality Act 2010 and is recorded separately but is included within the overall figures.</p>
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?	
	No
What evidence exists for this?	<p>The policy has been shared with the trade unions, staff forums, and a selection of managers and no issues relating to gender were identified.</p>

Appendix B: Diversity Impact Assessment: Screening Form

Management of Sickness Absence Policy

<p>10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?</p>	<p>No</p>	
<p>What evidence exists for this?</p>	<p>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 gender were identified.</p>	
<p>11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion/belief</i>?</p>	<p>No</p>	
<p>What evidence exists for this?</p>	<p>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.</p>	
<p>12. Are there concerns there <u>could</u> be a differential impact due to <i>age</i>?</p>	<p>No</p>	
<p>What evidence exists for this?</p>	<p>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. Data captured for the 2009/10 Workforce profile would support this statement (see table 3 – appendix 1). The council will monitor any trends relating to age and sickness and put into place mechanisms for appropriate management and support.</p>	
<p>13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?</p>	<p>No</p>	
<p>What evidence exists for this?</p>	<p>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.</p>	
<p>14. Are there any <i>other groups</i> that would find it difficult to access/make use of the policy, or who might experience unfavourable treatment (eg</p>		

Appendix B: Diversity Impact Assessment: Screening Form

Management of Sickness Absence Policy

<p>people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?</p>	<p>No</p>	
<p>What evidence exists for this?</p>	<p>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.</p>	
<p>15. Are there concerns there <u>could</u> be a differential impact due to <i>multiple discriminations</i> (eg disability <u>and</u> age)?</p>	<p>No</p>	
<p>What evidence exists for this?</p>	<p>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.</p>	

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

Appendix B: Diversity Impact Assessment: Screening Form

Management of Sickness Absence Policy

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	June 2013	
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 <i>another group</i> (eg new communities) that is relevant and ought to be considered next time?	N/A	
Signed (completing officer/service manager)	Date	
Signed (service manager/Assistant Director)	Date	

Related documents

Appendix B: Diversity Impact Assessment: Screening Form

Management of Sickness Absence Policy

DIA - Appendix one

Workforce monitoring report 2009/10

Table 1 - Sickness breakdown by ethnicity

2009/10	Total calendar days Sick	Average calendar days Sick
Asian or Asian British	1,589	5.23
Black or Black British	1,644	7.37
Chinese or Other	331	6.12
Multi-Ethnic	712	5.57
White (White British, White Irish, or White Other)	86,600	6.81
Not Given or Refused	1,749	7.00
Total	92,625	6.77

Table 2 - Sickness breakdown by disability

2009/10	Total calendar days sick	Average calendar days sick
Yes	3,926	10.02
No	86,304	6.65
Not Given or Refused	2,395	7.70
TOTAL	92,625	6.77

Table 3 - Sickness breakdown by age

2009/10	Total calendar days sick	Average calendar days sick
16-19	261	2.56
20-24	3,262	4.52
25-29	5,864	4.55
30-34	4,915	4.24
35-39	8,341	5.49
40-44	14,197	6.75
45-49	14,481	6.68
50-54	14,935	7.63
55-59	14,578	8.70
60-64	9,278	11.77
65+	2,513	12.52
TOTAL	92,625	6.77