

PERSONNEL COMMITTEE – 17TH OCTOBER 2017

Report of the Head of Strategic Support

Part A

ITEM 5A DISABILITY LEAVE GUIDANCE

Purpose of Report

To gain the Personnel Committee's approval to introduce a revised Disability Leave Guidance document. These changes were agreed with SMT on 1st February 2017.

Recommendation

That the revised version of the Council's Disability Leave Guidance, set out in Annex A to this report, be approved and adopted and that this document replace the current Disability Leave Scheme.

Reason

The current scheme was implemented prior to the Equality Act of 2010. This legislation and case history has clarified, to a greater extent, the employer's responsibilities for providing reasonable adjustments for disabled employees. The current scheme does not clarify the difference between disability leave and disability sickness absence. The Trade Unions confirmed, at JMTUM on 18th May 2017, that they did not agree to the revised Disability Leave Guidance. Informal consultation meetings have been held on 23rd May 2017 and on 18th July 2017.

Policy Justification and Previous Decisions

The guidance has been reviewed and re-written to provide greater clarity about when it is appropriate to grant disability leave.

Implementation Timetable including Future Decisions

It is recommended that the Disability Leave Guidance document be published on the intranet and the current Disability Leave Scheme will be deleted, following approval by Personnel Committee.

Report Implications

The following implications have been identified for this report.

Financial Implications

There are no immediate financial implications arising from this decision.

Risk Management

There are no specific risks associated with this decision.

Background Papers: Equality Impact Assessment

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Part B

Background

1. The Council currently has a Disability Leave Scheme in place. The date of implementation of this guidance is not set out within the document.
2. Disability Leave is a reasonable adjustment used within the Council to support disabled employees. Disability Leave is not a statutory requirement; however it is an example of how the Council is going beyond the requirements of the Equality Act in order to support disabled employees. Disability Leave provides paid leave in addition to annual, statutory and flexi time leave (where appropriate) to employees. Unison has previously expressed the view that they feel the current policy is unclear. Management also agreed that the current document is ambiguous in part and does not support consistent interpretation. Therefore the Council feels it is of benefit to all to further clarify the principles of disability leave in the proposed revised guidance document.
3. The Attendance Management Policy and Procedure and Guidance document was updated and agreed at Personnel Committee on 4th August 2015. The Attendance Management documents support managers in managing all employee sickness related absence, and in addition provides guidance to managers in considering reasonable adjustments for disabled employee. The Attendance Management Guidance outlines reasonable adjustments which managers should consider when managing a disabled employee's sickness absence. These adjustments are in line with the relevant ACAS code. Disability leave is one of many reasonable adjustments that can be considered. However, disability leave should not be used to cover disability related sickness absence.
4. Disability leave is time off work that may be granted to a disabled employee as a reasonable adjustment for assessment, treatment or rehabilitation (involving a medical programme designed to restore the ability to work) which is related to the employee's disability.
5. The policy outlines some examples of the reasons for disability leave which include (but are not limited to):
 - Assessment for conditions such as dyslexia
 - Hearing aid tests
 - Training with a guide or hearing dog
 - Physiotherapy
 - Having equipment serviced or fitted.
6. It is proposed that a disabled employee may apply to take up to 10 occasions' paid disability leave (pro rata for part time) in a rolling 12 month period and the leave may be taken in full or part days or hours depending on circumstances.
7. The amended policy confirms that disability leave should be pre-arranged and is for a specified period of time. Furthermore, managers expect to

see evidence of the appointment to enable appropriate arrangements to be made in relation to time required for the appointment.

8. Disability leave will continue to be managed on a case by case basis, as the Council recognises that employees' disabilities, circumstances and personal management strategies vary considerably.
9. In order to manage an employee's disability leave request effectively, a form has been implemented which an employee must complete prior to requesting disability leave.

Trade Union Consultation

10. The amended guidance was presented to a meeting of the Joint Management and Trade Union Meeting (JMTUM) on 18th May 2017. The Trade Unions expressed the view that the proposed guidance was less favourable than the current scheme and did not agree to the changes. However, they did ask for an informal consultation meeting with HR.

Informal Consultation Meetings

23rd May 2017

11. An informal consultation meeting was held on 23rd May 2017 with Unison. GMB and Unite were unable to attend this meeting. At this meeting Unison were keen to discuss the current policy, and objected to the proposed policy. Discussions were held around the differences between disability related sickness absence and disability leave. The Council confirmed its view that the two are different with disability related sickness absence being addressed under the Attendance Management Policy and Disability Leave under Disability Leave Guidance.
12. Agreement was not reached to move forward with the revised Disability Leave Guidance, and it was agreed a further informal meeting would be held.

18th July 2017

13. A further informal consultation meeting was held with Unison and GMB. Unite were unable to attend this meeting.
14. Prior to attending this meeting, Unison had submitted some additions and amendments to the current Disability Leave Scheme. The Council clarified that in their view Unison's amendments did not provide greater clarity on the application of that policy.
15. Once again discussions were held around the differences between disability related sickness absence and disability leave.
16. At that meeting, management made it clear that they were willing to listen to different proposals about the number of occasions of disability leave and the process for booking disability leave. However, the Trade Unions did not want to negotiate on the new policy. Their preference is to retain

the existing policy. It is the view of management that the proposed policy is clear and outlines how disability leave is applied at the Council.

17. It was decided that as agreement could not be reached, the Disability Leave Guidance document would be presented to JNCC.

JNCC 30th August 2017

18. Following discussions at the above meeting it was agreed that the amendments listed below would be made to the proposed guidance document;

- (a) the number of occasions be clarified to explain that one occasion could consist of more than one day;
- (b) the addition of the wording 'in exceptional circumstances' with respect to form completion and numbers of occasions taken to improve flexibility of the application of the guidance;
- (c) that Strategic Directors be included in the process and consulted on disability leave requests to ensure consistency of application throughout a directorate.
- (d) the wording of the proposed Disability Leave Guidance be reviewed to ensure it maintained the compassionate spirit of the current scheme.

19. A copy of the Disability Leave Guidance, with the changes listed above was circulated to the Trade Unions within the timescale agreed. A steward from Unison responded as copied below:

'The amended guidance still falls well short of my members expectations.'

Summary

20. The revised document is clear and unambiguous and, in conjunction with the amended Attendance Management Policy and Procedure, provides disabled employees with generous reasonable adjustments to support them in maintaining their roles. Management have listened carefully to the views of the Trade Unions and adjusted the guidance in line with the points agreed at JNCC.

Recommendations

21. It is recommended that the Personnel Committee agree the revised Disability Leave Guidance attached to this report.

List of Appendices

- Annex A - Disability Leave Guidance
- Annex B – Disability Leave Guidance with tracked changes
- Annex C - Report on the number of disabled employees within the Council and the number of days Disability Leave agreed over a 2 year period.
- Annex D - Attendance Management Policy and Procedure
- Annex E - Attendance Management Guidance
- Annex F - JNCC Disability Leave Guidance Management Report

Annex G - Submission by the Trade Unions – Disability Leave Guidance
Annex H - Minutes of Joint Negotiating Consultative Committee (JNCC)



Annex A

Disability Leave Guidance

Purpose

The Council is committed to appointing and supporting disabled employees fairly. Disability Leave provides employees with additional paid leave to support them in adjusting to or managing their disability. The purpose of this guidance is to give information about what disability leave is, who it applies to, when it can be taken and what the process is for managers once they've authorised it. This guidance should be used in conjunction with the Council's [Attendance Management Policy and Procedure](#) and the associated [Guidance](#).

Definition of Disability

The Equality Act 2010 states that a person has a disability if "*they have a physical or mental impairment that has a substantial and long term negative effect on their ability to carry out normal daily activities*". Employers have a responsibility to consider 'reasonable adjustments' in appointing and managing disabled people. The Council strives to go beyond its statutory duty when this is appropriate and Disability Leave is an example of a 'reasonable adjustment' which goes beyond the Council's statutory responsibility.

People with HIV/AIDS, cancer and multiple sclerosis are covered by the Act from the date of diagnosis regardless of the impact that the illness is having on their life at the time of diagnosis.

Disability Leave

Disability leave is a reasonable adjustment that can be agreed for a specified reason, within the principles of this policy. Disability leave is not disability related sickness absence. Disability leave cannot be used to extend sick leave/sick pay. Disability Leave is time off work that may be granted to a disabled employee as a [reasonable adjustment](#) for assessment, treatment or rehabilitation (involving a medical programme designed to restore the ability to work) which is related to their disability. Although, it will be recorded for monitoring purposes, this type of leave is not sickness absence and will not be treated as such.

A disabled employee may apply to take up to 10 occasions' paid disability leave (pro rata for part time) in a rolling 12 month period and the leave may be taken in full or part days or

hours depending on circumstances. An occasion may also include a period of more than one day.

Disability leave should be pre-arranged and is for a specified period of time. Evidence of the appointment should be provided to the manager. In exceptional circumstances, Disability Leave could potentially be requested shortly after that leave is taken. Strategic Directors should be consulted about Disability Leave requests to ensure consistency of application throughout a directorate.

Examples of the reasons for disability leave include (but are not limited to):

-) assessment for conditions such as dyslexia
-) hearing aid tests
-) training with a guide or hearing dog
-) dialysis treatment
-) physiotherapy
-) chemotherapy or other cancer related treatments
-) a course of injections required for arthritis
-) having equipment serviced or fitted

It is recognised that employees' disabilities, circumstances and personal management strategies vary considerably even where they may have the same disability. Therefore, it is essential that disability leave is managed on a case by case basis.

Advice is available from HR and the Council's Occupational Health provider. Information about special facilities, funding and equipment can be obtained from Access to Work.

Requesting Disability Leave

An employee who wishes to request disability leave should complete the attached form and discuss the request with their manager, informing them of the reasons for the request, the length of time required and, the dates. Further advice may be sought from the Human Resources or the Council's Occupational Health provider; this may include requesting a Consultant/Specialist report.

The Manager should sign the form and give the employee a copy of the signed form, outlining the decision made.

Once authorised, the employee should complete the request on i-Trent.

Disability Related Sickness Absence

Disability related sickness absence arises where an employees' sickness absence is related to their disability. This would include recovery time following treatment related to a disability.

Disability related sickness will be included in sickness records but it is recorded and identified separately so that managers can take it into account when reviewing an

individual's sickness record. Further information regarding disability related sickness can be found in the [Attendance Management Guidance](#).



Disability Leave Request Form

This form should be used by employees to request approval for any periods of Disability Leave which are required for assessment, treatment, or rehabilitation in connection with a disability. An employee may need to attend OH to confirm the disability.

Please note that this form must be completed for every period of Disability Leave. Once approval is given for the leave following submission of this form to the manager, the request for disability leave should be completed on i-Trent.

Employee Details

Name: _____

Department: _____

Details of Request

Reason for Request: (tick as appropriate)

Treatment

Tests / Assessment

Rehabilitation

Please describe: _____

Dates: _____

No. of days/hours requested: _____

Signed: _____ (Employee's name)

Date: _____

To be completed by Manager: I confirm that the above leave has been

Signed: _____ Date _____



Annex B

Disability Leave Guidance

Purpose

The Council is committed to appointing and supporting disabled employees fairly. Disability Leave provides employees with additional paid leave to support them in adjusting to or managing their disability. The purpose of this guidance is to give information about what disability leave is, who it applies to, when it can be taken and what the process is for managers once they've authorised it. This guidance should be used in conjunction with the Council's [Attendance Management Policy and Procedure](#) and the associated [Guidance](#).

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People with HIV/AIDS, cancer and multiple sclerosis are covered by the Act from the date of diagnosis regardless of the impact that the illness is having on their life at the time of diagnosis.

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A disabled employee may apply to take up to 10 occasions' paid disability leave (pro rata for part time) in a rolling 12 month period and the leave may be taken in full or part days or

hours depending on circumstances. An occasion may also include a period of more than one day.

Disability leave should be pre-arranged and is for a specified period of time. Evidence of the appointment should be provided to the manager. In exceptional circumstances, Disability Leave could potentially be requested shortly after that leave is taken.

Examples of the reasons for disability leave include (but are not limited to):

-) assessment for conditions such as dyslexia
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-) training with a guide or hearing dog
-) dialysis treatment
-) physiotherapy
-) chemotherapy or other cancer related treatments
-) a course of injections required for arthritis
-) having equipment serviced or fitted

It is recognised that employees' disabilities, circumstances and personal management strategies vary considerably even where they may have the same disability. Therefore, it is essential that disability leave is managed on a case by case basis.

Advice is available from HR and the Council's Occupational Health provider. Information about special facilities, funding and equipment can be obtained from Access to Work.

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Strategic Directors should be consulted about Disability Leave requests to ensure consistency of application throughout a directorate. The Manager should sign the form and give the employee a copy of the signed form, outlining the decision made.

Once authorised, the employee should complete the request on i-Trent.

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Disability related sickness will be included in sickness records but it is recorded and identified separately so that managers can take it into account when reviewing an

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Please note that this form must be completed for every period of Disability Leave. Once approval is given for the leave following submission of this form to the manager, the request for disability leave should be completed on i-Trent.

Employee Details

Name: _____

Department: _____

Details of Request

Reason for Request: (tick as appropriate)

Treatment

Tests / Assessment

Rehabilitation

Please describe: _____

Dates: _____

No. of days/hours requested: _____

Signed: _____ (Employee's name)

Date: _____

To be completed by Manager: I confirm that the above leave has been

Signed: _____ Date _____

ANNEX C

Number of Disabled Employees and Number of Days of Disability Leave Granted

Number of Disabled Employees

The Council's formal records show that it employs 20 people who have declared that they have a disability.

Newly appointed employees are asked if they consider themselves to be disabled. Some people may choose not to declare this. The Council is also aware that a significant number of employees have developed a disability since they were appointed and have not chosen to declare this. Based on the formal records and incidental information available to HR, it could safely be assumed that double the figure of 20 disabled employees would be a more realistic estimate of the total number of disabled employees working for the Council.'

Number of Days of Disability Leave Granted

The Council's formal records show that a total of 11 people have booked disability leave in the past 2 years, but only 5 of those have declared that they have a disability.

In total over the last 2 years 42.27 days have been taken as disability leave, 22.51 of which were taken in the last 8 months of this year.

This information is likely to be incomplete. The formal records only show the number of instances of Disability Leave where the manager has asked the employee to record this leave as such on the self-service database. If managers simply agree to the leave and this is only recorded as such on the employee's flexible working record sheet, then those incidences will not be included in the report.

Attendance Management Policy and Procedure

1 Scope

This document applies to all employees of Charnwood Borough Council employed under the Joint Negotiating Committee for Local Government Services (JNC), National Joint Council for Local Government Services (NJC) and Joint Negotiating Committee for Local Authority Craft and Associated Employees (Craft).

Further information on the application of the policy is available in the supporting [Guidance](#) and this policy should be read in conjunction with that document.

It is not applicable to employees within their probationary period or casual workers.

2 Purpose

The purpose of the Council's Attendance Management Policy and Procedure is to provide a supportive framework for employees where a shortfall in attendance has been identified in order to assist employees to improve, reach and maintain the standard of attendance expected within their area of work.

It is acknowledged that, at times, employees need to take time off work due to personal illness or injury. The Council provides appropriate paid (or in some instances unpaid) leave in such circumstances and expects its employees to respond by ensuring they take reasonable care of their health and attend work unless they are unable to do so.

3 Roles and Responsibilities

HR Services	HR Services will provide advice, coaching and support to managers on the application of the Policy and Procedure. HR will also act as panel members at hearings and will express a view on whether the case is founded and make recommendations about the appropriate outcome.
Line Manager or Management Representative	Will support and manage the employee through the process and will normally act as the management representative if a hearing is convened.
Chair of the Panel	The Chair of the panel will manage the hearing and notify the employee of the decision. They will also normally present the case if the employee exercises their right to appeal against that decision.

Panel Members	Will support the Chair of the panel and express a view on whether the case is founded and make recommendations about the appropriate outcome.
Trade Union Representative or Work Colleague	To support and advise, if appropriate, the employee. At a hearing this may include presenting the employee's case, summarising and conferring with the employee and responding to points on behalf of the employee. The Trade Union or work colleague cannot answer questions put directly to the employee.

4 Short Term / Frequent Absences

This is described as an employee having regular periods of sickness absence from work on health grounds. This is normally 3 or more absences in a 6 month period, but will depend on the circumstances.

5 Long Term Absence

This is normally defined as being a continuous absence of 4 weeks or more, which is medically certified and attributable to an underlying medical condition or specific reason.

6 Monitoring of Employee Attendance

All absences should be reported, recorded, monitored and analysed on an ongoing basis in order to identify problems, review individual cases and decide upon any appropriate action.

Absences which may require further attention / investigation, may include, but will not be limited to the following:

-) Three periods of absence in 6 months;
-) A pattern of absence e.g. regular Friday / Monday absences or linked to annual leave;
-) Two long periods of absence (which is over 1 week but less than 4 weeks) in a 6 month period;
-) A long term absence of 4 weeks or more;
-) A stress related absence or reoccurrence of a stress related absence;
-) Regular repetition of the same / similar type of illness.

Authorised absence (e.g. unpaid leave) should not be counted towards the 'triggers' shown above.

7 Return to Work Meetings

Managers should complete a return to work interview with employees following every period of absence. In many cases the meeting may be as brief as a quick chat to ensure the employee is fit to return, welcome them back to work and provide any support that could help them.

8 Support Mechanisms

Managers may wish to explore the following options:

- a) [Referral to Occupational Health](#) to seek medical advice and opinion.
- b) [Rehabilitation / Phased Return to Work Plan](#) to assist the employee to return back to work on a planned and phased basis, usually following a medical recommendation.
- c) [Reduction in Hours](#) to assist the employee to return back to work on a temporary or permanent basis, which must be mutually accommodated and agreed. The employee's contract of employment will then be changed accordingly.
- d) [Flexible Working](#) this would enable employees to adjust their working arrangements on a temporary basis where this can be accommodated by the service. Adjustments may include an element of home working or a different pattern of work.
- e) [Temporary Redeployment](#) to a different role to enable the employee to return to work.
- f) [Preferential Treatment Status](#) where applicable, to obtain alternative work on the Council's redeployment register to enable the employee to return back to work. If the employee is appointed to another post, there will be no entitlement to pay protection or additional travel expenses.
- g) [Reasonable Adjustments](#) to support the employee in their role and to improve their attendance levels.
- h) [Amica Counselling Service](#) to access counselling and support on a range of issues (e.g. financial worries, family concerns, work-related problems, etc).

9 Employee's with a Disability

Consideration should be given as to whether an employee's level of attendance is due to a disability, and if so, what [reasonable adjustments](#) may be needed to assist the employee in being able to reach the acceptable level of attendance. If an underlying disability is suspected an Occupational Health referral is usually required for advice on reasonable adjustments. Further advice should be sought from HR Services.

10 Employees with a Serious Medical Condition

The Council recognise that employees can develop serious medical conditions which can affect their attendance at work. This may be evident through long-term or short term frequent absences. Managers should be particularly sensitive and supportive to employees in these circumstances, working with HR to provide appropriate supportive measures as outlined above. Managers should also give due consideration, taking into account advice received from Occupational Health, to when it is appropriate to adopt different stages within the policy. Where possible, solutions should be sought, which are beneficial to both the employee and the service.

If an employee is diagnosed as having a terminal illness, then managers should refer to the 'Dying to Work' charter which the Council has adopted.

11 Sickness Absence during Pregnancy

If the employee is off work ill, or becomes ill, with a pregnancy related illness during the last four weeks before the expected week of child birth (EWC), maternity leave will normally commence on the day after the first day of absence. Pregnancy related absences during this period may be disregarded at the manager's discretion.

Sickness absence prior to the last four weeks before the EWC, supported by either a fit note or a self-certificate, shall be treated as sickness absence in accordance with normal sickness absence provisions. However, pregnancy related absences may be disregarded for the purpose of invoking the formal stages of the policy and for any future employment related decisions.

12 Annual Leave and Bank Holidays

Annual leave will continue to accrue during sickness absence. Employees on long term sickness absence (i.e. over 4 weeks) will also accrue their public holiday entitlements.

13 Links to Disciplinary Policy and Procedure

Where sickness absence patterns emerge and where it is believed that absences are not attributed to genuine sickness, this will be investigated through the [Disciplinary Policy and Procedure](#).

14 Escalation to Stage 4

In most cases there will be four stages to the attendance management process. However, there may be occasions in cases of long term sickness absence where the medical reports indicate that a return to work is not possible within a reasonable time period. In these circumstances the manager must ensure that all avenues of [support](#) such as [ill health retirement](#) and [redeployment](#) have been exhausted as applicable, but may proceed to Stage 4 of the attendance management process without completing all and/or any of the other three stages. Where the manager wishes to progress to Stage 4 before the preliminary action stage has been completed, this must be agreed by the employee. The employee should ensure that they are in receipt of all appropriate information before making the decision. Advice must be sought from Strategic HR before escalating to Stage 4.

15 Stage 1 Preliminary Action

If there are concerns regarding an employee's level of attendance, the manager will arrange a meeting with the employee to review their absence record and if relevant, draw up a [support plan](#). A review period should be agreed (which will vary in individual cases, but generally this will be between 4 and 8 weeks) and [support mechanisms](#) considered.

It is not usual practice for an employee to be accompanied at this stage. However, if the manager or employee feels that it would be appropriate, the employee may be accompanied by a work colleague or Trade Union representative.

A meeting should be held with the employee at the end of the review period to determine whether the support plan has been achieved. If the employee has not achieved the level of attendance required by the end of the review period, the line manager may consider progressing to Stage 2 of this procedure.

However, if the employee has made sufficient improvement, the attendance management procedure will cease. If the improvement is not sustained for 4 months from the end of the review period then the manager may progress to Stage 2 of this procedure.

Brief notes of all meetings should be taken to record what has been discussed and a copy provided to the employee for their agreement.

16 Stage 2 – Formal Action

Where there are continuing concerns over an employee's attendance, the manager will invite the employee to attend a Formal Attendance Management Meeting. Ten working days' notice will be given for this meeting, the purpose of which is to establish the facts, to allow the employee to respond to concerns about their attendance and if applicable, put further support mechanisms in place. The employee has the right to be accompanied by a work colleague or Trade Union representative. Notes should be taken at this meeting and a copy will be sent to the employee for their agreement, together with any relevant documents e.g. the agreed [support plan](#).

The person conducting the meeting will:

-) Identify the level of attendance not being met, and give clear [guidance](#) on the standard of attendance required (support plan);
-) Explore any [support mechanisms](#) available to help the employee improve their attendance;
-) Specify the monitoring and review period for improvement (which will vary in individual cases, but generally this will be between 4 and 8 weeks);
-) Advise the employee of the potential outcomes of the meeting noting that failure to improve to the required attendance level within the timescale could lead to the manager arranging an attendance management hearing whereby the employee could be issued with a final written warning.

The employee will:

-) Provide an explanation as to any reasons why their attendance is not meeting expectations and explore any factors that may be having an impact (e.g. domestic circumstances, underlying health problems, work concerns, etc.);
-) Identify any support mechanisms that they feel may help them to improve their attendance.

17 Review Meeting

A review meeting will be held at the end of the support plan period. Employees have the right to be accompanied by a work colleague or Trade Union representative. Notes should be taken at this meeting and a copy will be sent to the employee along with a letter confirming the outcome of the meeting.

Both the person conducting the meeting and the employee will have an opportunity to present evidence to support their position.

The potential outcomes of the meeting are:

-) If the employee has made sufficient improvement, the attendance management procedure will cease. However, if the improvement is not sustained for 9 months from the end of the review period then the manager may recommence at [Stage 3](#) of this procedure.

- J If some improvement has been made and further progress is likely, it may be appropriate to extend the review period by 4-6 weeks. In the majority of cases it will be appropriate to extend the review period just once during the attendance management process.
- J If no, or insufficient improvement has been made, the employee will be advised that a Stage 3 Attendance Management Hearing will be arranged at which they could be issued with a Final Written Warning.
- J If applicable, [escalation](#) to a Stage 4 Attendance Management Hearing (see No. 13 above).

18 Stage 3 – Final Action

Attendance Management Hearing

The manager will be responsible for arranging a panel which will be chaired by a Senior Manager (PO Grade or above), supported by a further Senior Manager and a representative from HR Services, who will act as panel members. All of the panel should have had no prior involvement in the employee's case. The manager should also arrange a note-taker. In cases that could potentially lead to dismissal, the Chair should be Head of Service level or above.

Ten working days written notice will be given to attend the formal hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. The letter should state that a potential outcome of the hearing is a final written warning. Employees should also receive copies of relevant documentation e.g. support plan(s), notes of meetings, etc. within an evidence folder. Employees will also be given an opportunity to provide evidence and this must be submitted to the Chair of the panel at least 5 working days before the date of the hearing. Details of the format the hearing should take can be found in the supporting [Guidance](#).

The panel may find:

- J The level of attendance is acceptable;
- J It is appropriate to issue the employee with an extension (4-6 weeks) to the review period of the support plan agreed during [Stage 2](#). This should only be considered if an extension has not previously been given during the attendance management procedure or in exceptional circumstances. The panel will reconvene at the end of the extension period;
- J The level of attendance is not acceptable. If the panel are satisfied that the employee has been unable to improve their attendance to the required standard, they will issue the employee with a final written warning. Within 7 days of the hearing, the manager should meet with the employee to agree a further [support plan](#) and review period. A date and time should also be agreed for the final (and any mid-

point) review meeting. The panel may wish to make recommendations at the hearing regarding the contents or duration of the support plan;

The employee should receive written confirmation of the outcome of the hearing including information on their right to appeal the decision.

19 Final Written Warning

Where an employee has received a Final Written Warning, this will remain on their file for 12 months.

20 Right of Appeal

An employee has the right to appeal against their final written warning and it must be submitted in writing by the employee within 7 working days of receiving notification of the hearing. For further information, please refer to the [Appeal Policy](#).

21 Review Meeting

A review meeting will be held at the end of the support plan review period. The employee has the right to be accompanied by a work colleague or Trade Union representative. Notes should be taken at this meeting and a copy will be sent to the employee together with a letter confirming the outcome of the meeting.

The potential outcomes of the meeting are:

- | If the employee has made sufficient improvement, the attendance procedure will cease. However, if the improvement is not sustained within 12 months from the end of the review period then the manager may recommence at Stage 4 of this procedure;
- | If some improvement has been made and further progress is likely, it may be appropriate to extend the review period by 4-6 weeks. This should only be considered if an extension has not previously been given during the attendance management procedure;
- | If no, or insufficient, improvement has been made, the employee will be advised that a Stage 4 Attendance Management Hearing will be convened to consider the case and that a potential outcome is dismissal.

22 Stage 4 – Attendance Management Hearing

The manager will be responsible for arranging a panel, chaired by a Senior Manager (PO Grade or above), supported by a further Senior Manager and a representative from HR Services, who will act as panel members. All of the panel should have had no prior involvement in the employee's case. In cases that could potentially lead to dismissal, the Chair should be Head of Service level or above.

If a hearing has already been held under Stage 3 of the procedure then, where possible, the same panel should be used for this hearing. The manager should also arrange a note-taker.

Ten working days written notice will be given to attend the hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. The letter should state that a potential outcome of the hearing is dismissal. Employees should also receive copies of relevant documentation e.g. support plan(s), notes of meetings, etc. within an evidence folder. Employees will also be given an opportunity to provide evidence and this must be submitted to the Chair of the panel at least 5 working days before the date of the hearing. Details of the format the hearing should take can be found in the supporting [Guidance](#).

The panel may find:

-) The level of attendance is acceptable;
-) It is appropriate to issue the employee with an extension (4-6 weeks) to the review period of the support plan agreed during [Stage 3](#). This should only be considered if an extension has not previously been given during the attendance management procedure. The panel will reconvene at the end of the extension period;
-) The level of attendance is not acceptable. If the panel are satisfied that the employee has been unable to improve their attendance to the required standard, having considered the grounds of the appeal including any reasons for the failure to reach the required standard, it is likely that they will dismiss the employee from the Council's employment with notice.

The employee will be notified in writing of the outcome of the hearing including their right of appeal. If the employee has been dismissed, the letter should include the reason for the dismissal and the employee's termination date. A copy of the notes from the hearing should also be provided.

23 Right of Appeal

An employee has the right to appeal against their dismissal from the Council and it must be submitted in writing by the employee within 7 working days of receiving notification of the hearing. For further information, please refer to the [Appeal Policy](#).

Attendance Management Guidance

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Purpose

This guidance should be used in conjunction with the [Council's Attendance Management Policy and Procedure](#).

Reporting of Sickness Absence

It is essential that managers are familiar with the Council's procedure for reporting sickness absence and are clear about their responsibilities in ensuring that employees are aware of

and comply with the procedure. It is recommended that new employees are informed of the procedure during induction training. A copy of the sickness absence reporting procedure is attached at [Appendix A](#).

Failure to Report an Absence

If the employee fails to report an absence in line with [Appendix A](#), then the employee will be deemed 'absent without authorisation'. The employee will not be paid for this period of absence. This should be confirmed in writing to the employee. A template letter is attached at [Appendix B](#).

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Recording and Monitoring of Employee Attendance

Effective record keeping is an essential management tool for monitoring employee absence. It provides important information to enable managers to:

-) Assess levels of absence against key indicators;
-) Manage sickness absence effectively and increase attendance levels by supporting employees to remain at or return to work;
-) Identify problems so that they can be addressed at an early stage;
-) Make informed decisions so that there is no disruption to service provision;
-) Identify trends and any underlying issues which may need to be addressed on an individual and/or group level.

In all cases a [Self-Certification e-form](#) must be completed and submitted by the employee.

A copy of the completed form will be sent to both the employee and the manager for their records.

Managers are responsible for inputting sickness absence directly into iTrent. This will provide them with access to real-time information regarding sickness levels in their area and thereby help them to identify at an early stage any trends that may need addressing or individual cases that should be managed under the [Attendance Management Policy and Procedure](#).

Managers should ensure that medical information about employees is treated in absolute confidence and only relevant information should be shared with colleagues on a strictly need to know basis only.

Other leave of absence (e.g. compassionate leave, unpaid leave, etc.) should be recorded separately. Managers will need to complete the appropriate e-form available on the intranet. Employees will need to record the absence on iTrent.

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Maintaining Contact during Employee Absence

Throughout any period of absence it is important to maintain regular contact with the employee in order to offer them appropriate support and assistance. The extent, frequency and method of this contact will need to be judged on a case by case basis.

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

However it is managed, the important principle is that some reasonable level of contact with the employee is maintained whether this is by telephone, in person, e-mail, or letter. This will ensure that all parties are kept informed of progress regarding particular issues including a timescale for return. A brief record of the contact made should be kept.

Further information and advice on maintaining contact can also be found in the [Line Manager Guide on Mental Ill Health and Supporting Employees](#).

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Fit Notes

Employees must provide a doctor's "fit note" if they are off sick for more than 7 calendar days in a row (including non-working days). The fit note will advise whether the employee is 'not fit for work' or 'may be fit for work'. Managers should ensure that a copy of the fit note and a summary of any related discussions are uploaded into the employee's record on i-Trent. The original copy of the fit note should be returned to the employee.

Not Fit For Work

This means that the employee should refrain from work of any kind. If an employee requests to return to work before their 'not fit for work' note expires, manager should seek advice from HR Services before agreeing to the request.

May Be Fit For Work

This means that the employee may be able to undertake work of some kind. The doctor will advise on what support would be required to support the employee to return to work (e.g. amended duties or working hours, workplace adaptations). Managers should meet with the employee as soon as possible to discuss the fit note recommendations and any other support that could be provided. If it is not possible to accommodate the necessary changes, the employee should be classed as 'not fit for work'. A new fit note confirming this would not be required.

Return to Work Meetings

The purpose of this discussion is to:

-) Welcome the employee back to work;
-) Ensure that the employee is fit to return;
-) Discuss the reason for the absence;
-) Address any problems that may be causing or contributing to the absence (e.g. workload, work relationships, etc.);
-) Identify any support or assistance that could be provided;
-) Agree return to work arrangements including work priorities;
-) Brief the employee on anything that occurred during their absence;
-) Discuss the employee's attendance record and alert them to any action that may need to be taken (e.g. [support plan](#), [Occupational Health referral](#));

- J Complete and sign off the [Return to Work e-form](#).

As the return to work meeting is part of normal day-to-day management, the employee does not have the right to be accompanied. In many cases the meeting may be as brief as a quick chat to ensure that the employee is fit to return to work and welcome them back.

Managers must complete a return to work interview with employees following every episode of absence. Return to work meetings should normally take place on the employee's first day back, regardless of the length of the absence. If the discussion takes place over the telephone, arrangements will need to be made for the employee to complete the relevant sections of the [Self-Certification e-form](#). If the employee's manager is absent on their return, responsibility for carrying out the return to work meeting should be passed to another manager.

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Support Mechanisms

Managers may wish to explore the following support mechanisms, depending on the nature of the case:

Amica Counselling and Psychological Support Service

Employees should be reminded about the availability of [AMICA](#) but they cannot be forced to make contact with them. The service can offer counselling support on a range of issues (e.g. financial worries, family concerns, work-related problems, etc.) and can also signpost employees to other specialist services.

Occupational Health Referral

Occupational Health should be seen as a preventive service with professional expertise to help managers and employees with interventions that may prevent an absence or speed up a recovery. A [referral](#) to Occupational Health can be made at any time. The employee does not need to be off sick or on long term absence. Often an early referral can provide both the manager and the employee with the necessary advice to provide any relevant support and to prevent a period of absence from occurring.

Health and Safety Workplace Risk Assessment

If the employee identifies work-related factors which they feel are contributing to their attendance level then it will be necessary to consider how to address these factors. It may be appropriate to undertake a risk assessment or make some adjustment to the employee's working environment. Health and Safety may be able to provide support and advice on cases or a referral to Occupational Health may be considered. For further advice and information on conducting risk assessments please contact Health and Safety.

Reasonable Adjustments

Where the employee has a condition which may be considered a disability, managers have a duty to consider reasonable adjustments. This can include adjustments to the role and to the absence management process itself. Details of information on Access to Work are available in the [Supporting Disabled Employees Guidance](#). Further advice can also be obtained from HR Services.

Rehabilitation / Phased Return to Work

Consideration should be given as to whether a rehabilitation / phased return to work plan might be appropriate to support the employee. This could include a variety of interventions, for example:

-) Job shadowing;
-) Reduced hours - incrementally increasing over a period of time;
-) Refresher training;
-) Light duties.

As a guide, a rehabilitation / phased return to work plan would not run for longer than 6 weeks. During this period the employee will receive full pay. If, at the end of the 6 week period the employee has not returned to their substantive hours, the manager will need to consider next steps. This may include the employee temporarily reducing their contracted hours or extending their phased return for a short period by using annual leave to cover the shortfall in hours.

Reduction in Working Hours

In order to support the employee to either return to, or improve their attendance at work, it may be appropriate to consider a reduction in their working hours. This would need to be mutually agreed and can be on a temporary or permanent basis. A [variation to contract e-form](#) would need to be submitted so that the employee's contract of employment can be changed accordingly.

Redeployment

It may be appropriate to consider redeployment into an alternative vacant post, either on a permanent or temporary basis, to enable the employee to return to or remain at work. This should be undertaken in conjunction with the formal absence management procedure. Where it is agreed by both the manager and the employee that suitable alternative employment would be an option to resolve the situation, the employee will be given [Preferential Treatment Status](#) in accordance with the Redeployment Policy and put on the Council's Redeployment Register. If the employee is appointed to another post, it will be the pay and conditions of the new post which will apply. There will be no entitlement to pay protection or additional travel expenses. Further information and advice is available from HR Services.

Consideration of Ill Health Retirement

Depending on the nature of their absence, the employee may be considering applying for ill health retirement. If so, advice can be sought by the employee, or by the manager on their behalf, from HR Services. Additional support may be available from the employee's Trade Union. In such cases, employees will need to be assessed by an Occupational Health Professional. A potential application on the grounds of ill health retirement should not necessarily delay the timing of any meetings.

Flexible Working

Flexible working would enable employees to adjust their working arrangements on a temporary basis where this can be accommodated by the service area. The service area may consider requests for flexible working, which may include an element of home working or a different pattern of work.

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Employees with a Serious Medical Condition

The Council recognises that employees can develop serious medical conditions which can affect their attendance at work. Serious medical conditions can occur at any time and may be evidenced through long term or short term frequent absences.

In these circumstances, managers should be sensitive and supportive to employees, working with HR to provide appropriate and reasonable supportive measures.

Managers should also give due consideration, taking into account advice received from Occupational Health, to when it is appropriate to adopt different stages within the policy. Where possible, solutions should be sought, which are beneficial to both the employee and the service.

If an employee is diagnosed as having a terminal illness, then managers should refer to the 'Dying to Work' charter which the Council has adopted.

Fit for Work Service

Fit for Work is a government scheme that offers free health and work advice to help support employees to remain in, or return to, work.

Managers and employees can seek advice from the service on any work-related health matters (e.g. general information about health conditions, types of adjustments which may be appropriate) via the [Fit for Work website](#) or telephone advice line (0800 0326235).

Employees who have been, or are expected to be, absent from work for over 4 weeks may be referred to the service by their GP for an occupational health assessment. This assessment will consider all of the health, work, and other (e.g. personal and social) issues that may be affecting the employee's ability to return to work. As part of the assessment, Fit for Work may contact the employee's manager (with the employee's consent) to discuss factors which might help to support the employee back to work.

Managers should note that the services provided by Fit for Work do not replace the Council's own occupational health provider and referrals should therefore continue to be made in the normal way.

Return to Work Plans

Following the occupational health assessment, a Return to Work Plan will be produced which sets out any advice and/or recommendations that will help the employee to return to work more quickly. With the employee's consent, a copy of the plan will be provided to the employee's manager via email or, where appropriate, by post. The Council is not legally required to implement the recommendations from a Return to Work Plan however, if a manager is considering disregarding such recommendations, advice should be sought from Human Resources.

Return to Work Plans can be accepted as evidence of sickness absence in the same way as a fit note. If an employee has been issued with a plan, their GP will not provide

them with a fit note unless they remain off work when they are discharged from the Fit for Work service. A fit note would be required to cover any period of absence (over 7 days in duration) that takes place before a Return to Work Plan is issued.

Employees will be discharged from Fit for Work once they have returned to work, or where the service can no longer provide further assistance or if a return to work has not been achieved after 3 months.

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Attendance Issues and Disability

When reviewing an employee's sickness record consideration should be given as to whether any or all of the absence is related to an employee's disability. Sickness absence which is disability-related should be clearly recorded as such on iTrent.

Where an employee has a disability the Council has a duty to make "reasonable adjustments" to both the workplace and/or working environment and to our policies and procedures to assist the employee in improving their attendance and not place them at a disadvantage. If at any stage a disability becomes apparent, reasonable adjustments must be considered. These could include:

-) Flexible working arrangements;
-) Specialist equipment (possibility of funding through Access to Work);
-) Redeployment into an alternative role;
-) Using discretion in relation to the 'indicators', to allow the employee more time off before proceeding to the next stage of the procedure (advice should be sought from Occupational Health on the likely level of absence);
-) Allowing the employee to take disability-related leave for reasons connected with rehabilitation, assessment, treatment or servicing of necessary equipment or disability aids;
-) Allowing a longer timescale for review of reasonable adjustments (e.g. modifications to working pattern or provision of special equipment);
-) Allowing a longer period of time to seek redeployment;
-) Amending the process to alleviate any other disadvantage.

It is difficult to specify the amount of variation required as each employee's disability is different. Advice should be obtained from HR Services and Occupational Health before reasonable adjustments are implemented.

Once agreed 'reasonable adjustments' should be progressed as soon as possible. They will usually be given at least 3 months or more to work and will be subject to regular monthly reviews. Dependent upon the circumstances, in some cases adjustments may need to be permanent.

Further information and advice on making reasonable adjustments can be found in the [Manager's Guide to Supporting Disabled Employees](#).

More specific guidance regarding supporting employees who are experiencing mental ill health is available in the [Line Manager Guide on Mental Ill Health and Supporting Employees](#).

Managers should note that whilst an occupational health report can assist an employer in deciding whether or not an employee is disabled, it is the employer's responsibility to make the final decision as to whether the individual is covered by disability discrimination legislation. While it may be appropriate to ask Occupational Health for clarification as to whether or not the employee should be treated as disabled, it is also important to pose specific practical questions, as part of the referral, directed at the particular circumstances of the employee's condition. Where there is any doubt, consideration should be given to offering the employee appropriate reasonable adjustments. Further advice is available from HR Services.

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Pregnancy-Related Absence

Under health and safety legislation, a workplace risk assessment must be carried out on all expectant mothers. If the duties of the job are likely to cause the employee harm, steps must be taken to remove or reduce the risk. Specifically, consideration should be given to:

-) Adjusting the employee's working hours if she is a night worker and her medical practitioner certifies that it would be detrimental to her health to continue working nights;
-) Removing the employee from any duties that might pose a risk to her health and safety;
-) Transferring the employee to an alternative job on comparable terms and conditions;
-) "Suspending" the employee from work on normal pay until the commencement of her maternity leave if no suitable alternative work is available or would not remove or reduce the risks to her.

Sickness absence which is pregnancy-related should be clearly recorded as such on iTrent. If the employee has a high level of absence related to this, managers should meet with her at the earliest opportunity to discuss what support could be provided to help improve her attendance. This may include reviewing and revising the pregnancy risk assessment and if necessary, seeking advice from [Occupational Health](#).

Sickness absence prior to the last 4 weeks before the expected week of child birth (EWC), supported by a fit note or self-certificate, shall be treated as sickness absence in accordance with normal sickness absence provisions, but will normally be disregarded for the purposes of invoking the formal stages of the process and for any future employment related decisions.

If the employee is absent due to a pregnancy-related illness during the 4 weeks up to her EWC, her maternity leave will normally commence on the day after the first day of absence. Odd days of pregnancy-related sickness during this period may be disregarded at the manager's discretion if the employee requests to continue working until her planned maternity leave start date. When considering whether to allow this discretion, managers should ensure that they have considered the relevant risks (e.g. duration and reason for absence, advice from the individual's GP / midwife, etc.).

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Annual Leave and Public Holidays

Annual leave will continue to accrue during sickness absence. Employees on long term sickness absence (i.e. over 4 weeks) will also accrue their public holiday entitlements.

Employees who return to work following a period of long term sickness may be entitled to carry over any outstanding annual leave entitlement into the next annual leave year. The amount of annual leave that the employee has accrued over the previous 18-month period will be taken into account when agreeing how much leave can be carried forward.

The actual amount of leave which may be carried forward will depend on the facts of each case. Managers will therefore need to provide HR Services with details of the:

-) Employee's annual leave entitlement over the last 2 years;
-) Amount of employee's annual leave at start of each leave year (including any carried forward from previous leave year);
-) Amount of annual leave booked in the last 2 leave years (including any booked but not taken owing to sickness);
-) Amount of annual leave taken in the last 2 leave years;
-) Dates of sickness absence(s) - from and to;
-) Any individual circumstances (e.g. if the employee has requested leave but has not been allowed to take it).

Any accrued leave carried forward is to be taken during the new leave year. As a general rule, employees will not be permitted to carry leave forward again (excluding standard carry forward arrangements).

Employees are entitled to book and take annual leave during a period of long term sickness absence and should be encouraged to do so. This may be of particular benefit to the employee if they are in receipt of half-pay or no-pay.

If an employee falls ill whilst on annual leave, this will be treated as sickness absence and their annual leave refunded providing that the individual:

-) Follows correct sickness absence reporting procedures; and
-) Provides a medical certificate to cover their absence.

Employees who resign or are dismissed following long term sickness absence are entitled to be paid for any outstanding leave. Managers should contact HR Services for specific advice in these circumstances.

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Escalation to Stage 4

In most cases, there will be four stages to the attendance management process. However, there may be occasions in cases of long term sickness absence where the medical reports indicate that a return to work is not possible within a reasonable time period. In these circumstances the manager must ensure that all avenues of support such as ill health retirement and redeployment have been exhausted as applicable, but may proceed to Stage 4 of the attendance management process without completing all and/or any of the other three stages. Where the manager wishes to progress to Stage 4 before the

preliminary action stage has been completed, this must be agreed by the employee. The employee should ensure they are in receipt of all appropriate information before making this decision. Advice must be sought from HR Services before escalating to Stage 4.

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Stage 1 - Preliminary Action

It is acknowledged that, at times, employees need to take time off work due to personal illness or injury. The Council provides appropriate paid (or in some instances unpaid) leave in such circumstances and expects its employees to respond by ensuring they take reasonable care of their health and attend work unless they are unable to do so.

Where an employee's attendance level requires further attention/investigation, they should be advised that a meeting will be arranged to review their absence record and if appropriate, put in place a support plan and review period. Appropriate and reasonable support and assistance should be provided to improve employee's attendance. The employee should be provided with a copy of the [Attendance Management Policy and Procedure](#).

It is not usual practice for an employee to be accompanied at this stage. However, if the manager or employee feels that it would be appropriate, the employee may be accompanied by a work colleague or Trade Union representative.

At the meeting the manager should:

-) Provide the employee with a summary of their absence record, highlighting any significant patterns or characteristics. The return to work meeting notes included on the [Return to Work e-form](#) can be used as a prompt to cover all of the points that need to be discussed;
-) Identify the level of attendance which is not being met;
-) Ask the employee to give their explanation as to why their current attendance is not meeting expectations and explore any factors that may be having an impact (e.g. domestic circumstances, underlying health problem, etc.);
-) Explore what support or assistance can be provided to ensure that the employee is able to maintain an acceptable attendance record;
-) Discuss the contents / recommendations of the [Occupational Health](#) report (if applicable);
-) Agree how the employee's attendance record might be improved, which could include actions by either or both parties;
-) If relevant, draw up a written support plan identifying [support mechanisms](#), the level of improvement required and the timescale for achievement (4-8 weeks);
-) Agree the date and time for the review meeting which will be held at the end of the support plan period. Managers are also recommended to hold at least one mid-point

review meeting. The date and time of this meeting should also be agreed with the employee;

-) Inform the employee that failure to improve to the required attendance level within the agreed timescale could result in them progressing to [Stage 2 \(Formal Action\)](#) of the [Attendance Management Policy and Procedure](#).

There may be occasions where managers feel that a support plan and review period is not necessary (e.g. where absences are [pregnancy-related](#)). In such circumstances managers are advised to discuss the case with HR Services prior to informing the employee.

The Support Plan

Appropriate and reasonable support and assistance should be provided to improve employee's attendance. The contents of the support plan should:

-) Seek to address the areas of concern;
-) Detail the expected level of attendance;
-) Identify [support mechanisms](#);
-) Specify the timescales for monitoring and review.

An example of a completed support plan can be found at [Appendix C](#). A copy of the agreed support plan should be provided to the employee following the meeting.

At the end of the support plan review period, the manager should meet with the employee and confirm whether or not they have met the required standard of attendance. If the employee has made sufficient improvement, the attendance management procedure will cease. Failure to sustain this improvement for a period of 4 months may result in the employee being progressed to [Stage 2 \(Formal Action\)](#) of the attendance management procedure.

If there are still concerns at the end of the review period, the manager may advise the employee that they will now be managed under [Stage 2 \(Formal Action\)](#) of the attendance management procedure and that a further meeting will be arranged to discuss their attendance.

Brief notes of all meetings should be taken to record what has been discussed and a copy provided to the employee for their agreement.

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Stage 2 - Formal Action

If there are still concerns about the employee's level of attendance at the end of the Stage 1 review period or the employee has not sustained their improved attendance for the required 4 month period, the manager should invite the employee to attend a Formal Attendance Management Meeting.

Formal Attendance Management Meeting

The purpose of this meeting is to discuss the concerns regarding the employee's attendance level and to consider ways in which this could be improved. Notes should be taken at the meeting.

The meeting will usually be held by the employee's manager and the employee should be informed in writing of the requirement to attend giving at least 10 working days notice. The employee has the right to be accompanied by a work colleague or Trade Union representative.

The invite letter must include details of the concerns and confirm the record of monitoring / progress to date. A copy of the support plan agreed previously during Stage 1 of the procedure should also be included. A template invite letter is attached at [Appendix D](#).

At the meeting the manager should include in the discussion the following:

-) Identify the level of attendance which is not being met (making reference to the outcome of the [Stage 1](#) support plan and review period);
-) Ask the employee to give their explanation as to any reasons why their current attendance is not meeting expectations and explore any factors that may be having an impact (e.g. domestic circumstances, underlying health problem, etc.);
-) Explore what support or assistance can be provided to ensure that the employee is able to maintain an acceptable attendance record;
-) Discuss the contents / recommendations of the [Occupational Health](#) report (if applicable);
-) Agree how the employee's attendance record might be improved, which could include actions by either or both parties;
-) Draw up a written support plan which identifies any [support mechanisms](#), the level of improvement required and the timescale for achievement (4-8 weeks);
-) Agree the date and time for the [review meeting](#) which will be held at the end of the support plan period. Managers are also recommended to hold at least one mid-point review meeting. The date and time of this meeting should also be agreed with the employee;
-) Inform the employee that failure to improve to the required attendance level within the agreed timescale could result in a [Stage 3 Attendance Management Hearing](#) being arranged at which they could be issued with a final written warning.
-) If applicable, consider immediate [escalation](#) to a Stage 4 Attendance Management Hearing (see above).

Following the meeting, the employee should be provided with a copy of the agreed support plan and notes of the meeting.

The Support Plan

Details of what should be included in the support plan can be found in the [Preliminary Action](#) section of this guidance. An example of a completed support plan is attached at [Appendix C](#). If an Occupational Health referral has not already been arranged then managers are advised to complete one as part of the support plan at this stage.

Review Meeting

A review meeting should be held at the end of the support plan period. The purpose of this meeting is to review the contents of the plan and to assess whether there has been an improvement in the employee's attendance. The employee has the right to be accompanied by a work colleague or Trade Union representative. Notes should be taken at the meeting.

The potential outcomes of the review meeting are:

-) If the employee has made sufficient improvement, the attendance management procedure will cease. However, if the improvement is not sustained for 9 months from the end of the review period then the manager may recommence at [Stage 3 \(Final Action\)](#) of the procedure.
-) If some improvement has been made and further progress is likely, it may be appropriate to extend the review period by 4-6 weeks. In the majority of cases it will be appropriate to extend the review period just once during the attendance management procedure.
-) If no, or insufficient improvement has been made, the employee will be advised that a [Stage 3 Attendance Management Hearing](#) will be arranged at which the employee could be issued with a Final Written Warning. In the case of long term sickness absence, if medical reports indicate that a return to work is not possible within a reasonable timescale and all other avenues of support have been exhausted then a [Stage 4 Attendance Management Hearing](#) will be arranged with the agreement of the employee, a potential outcome of which could be dismissal. Please see the section on [Escalation to Stage 4](#) for more information.

The employee should receive written confirmation of the outcome of the meeting and a copy of the notes. A template letter is attached at [Appendix E](#).

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Stage 3 - Final Action

If the employee fails to make sufficient improvement by the end of the Stage 2 support plan review period or has not sustained their improved attendance for the required 9 month period then an Attendance Management Hearing will be convened to consider the case.

Attendance Management Hearing

The manager will be responsible for arranging a panel, chaired by a Senior Manager (PO Grade or above), supported by a further Senior Manager and a representative from HR Services, who will act as panel members. All of the panel should have had no prior involvement in the employee's case. The manager should also arrange a note-taker.

Documentation

The manager will write to the employee to notify them of the details of the hearing (date, time, venue, etc.) giving them a minimum of 10 working days notice. A template letter is attached at [Appendix F](#). Whenever possible the date should be arranged in consultation with the employee and their representative.

A copy of any paperwork / evidence folder which the manager intends to refer to at the hearing must also be enclosed. This could include:

-) Brief details of the employee's role and their employment with the Council (include a copy of the employee's job description);
-) Details of the employee's attendance record (including the number of days lost, dates and reasons for absence);
-) How the employee's absence compares with others;
-) Copies of self-certification forms (including notes from return to work meetings);
-) Notes of meetings;
-) Letters confirming the outcome of meetings;
-) Copies of support plans;
-) Copies of Occupational Health reports;
-) Copies of fit notes / medical documents.

An example hearing folder contents list can be found at [Appendix G](#). Further information on preparing for the hearing can be found in the [Hearing Preparation Guide](#).

The employee must be informed of their right to be accompanied by a work colleague or Trade Union representative and that a potential outcome of the hearing is a final written warning.

The letter to the employee must also request that if they intend to refer to any documentation at the hearing, a copy of this must be sent to the Chair of the panel at least 5 working days before the date of the hearing along with the names of any witnesses they wish to call.

Witnesses

It is the responsibility of the manager to ensure that they invite any witnesses (if required) to attend the hearing. Likewise, it is the employee's responsibility to ensure that they invite any witnesses (if required) to support their case at the hearing. Please note that the employee's Trade Union representative / work colleague can act on behalf of the employee to arrange their attendance at the hearing if permission from the employee has been granted.

Witnesses should only be present at the hearing whilst questions are being asked of them by the employee, their representative, management representative and panel members.

Release of Witnesses

Employees who are required to attend an attendance management hearing as a witness **must** be released from duty unless this would have a significant impact on service delivery. Advice should be sought from HR Services before declining such a request.

Failure to Attend

It is important that the employee is made aware that if they fail to attend on a given (or rearranged) date without an acceptable reason, the hearing may go ahead in their absence.

Conduct of the Hearing

1. The Chair of the panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their case. They should refer to documents circulated beforehand to evidence their views.
3. The employee and/or their representative may question the Presenting Officer.
4. The panel may question the Presenting Officer.
5. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the hearing. Each witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
6. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
7. The Presenting Officer may question the employee and their representative.
8. The panel may question the employee and their representative.
9. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the hearing. Each witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
10. The Presenting Officer may make brief concluding remarks.
11. The employee and/or their representative may make brief concluding remarks.
12. The Presenting Officer, the employee, their representative and the note taker will leave the room.
13. Having deliberated on the matters placed before them, the panel will reach their decision and then recall and advise those attending the hearing of the outcome.

Potential Outcomes

The panel may find that:

-) The employee's level of attendance is acceptable. The attendance management procedure will therefore cease. However, if the improvement is not sustained for 12 months from the end of the review period then the manager may recommence at [Stage 4](#) of the attendance management procedure;
-) It is appropriate to issue the employee with an extension (4-6 weeks) to the review period of the support plan agreed during [Stage 2](#). This should only be considered if

an extension has not previously been given during the attendance management procedure or in exceptional circumstances. The panel will reconvene at the end of the extension period;

-) The employee's level of attendance is not acceptable. If the panel are satisfied that the employee has been unable to improve their attendance to the required standard, they will issue the employee with a final written warning. Within 7 days of the hearing, the manager should meet with the employee to agree a further [support plan](#) and review period. A date and time should also be agreed for the final (and any mid-point) review meeting. The panel may wish to make recommendations at the hearing regarding the contents or duration of the support plan.

Notification of the Outcome

The employee should receive written confirmation of the outcome of the hearing including details of their right to appeal against the decision. A template letter is attached at [Appendix H](#).

If the employee has been issued with a final written warning, a copy should be sent with the outcome letter. A copy of the notes from the hearing should also be provided.

Final Written Warning

Where an employee has received a final written warning, this will remain on their file for 12 months. The employee should also be informed that failure to achieve an acceptable level of attendance by the end of the support plan review period may result in a [Stage 4 Attendance Management Hearing](#) being arranged at which they could be dismissed.

The Support Plan

Details of what should be included in the support plan can be found in the [Preliminary Action](#) section of this guidance. An example of a completed support plan can be found at [Appendix C](#).

Right of Appeal

Details of the employee's right of appeal are contained in the [Attendance Management Policy and Procedure](#). Template letters for inviting an employee to an appeal hearing and confirming the outcome are attached at [Appendix I](#) and [Appendix J](#).

Review Meeting

A review meeting should be held at the end of the support plan period. The purpose of this meeting is to review the contents of the plan issued following the Stage 3 Attendance Management Hearing and to assess whether there has been an improvement in the employee's attendance. The employee has the right to be accompanied by a work colleague or Trade Union representative. Notes should be taken at the meeting.

The potential outcomes of the review meeting are:

-) If the employee has made sufficient improvement, the attendance management procedure will cease. However, if the improvement is not sustained for 12 months from the end of the review period then the manager may recommence at [Stage 4](#) of the procedure;

- J If some improvement has been made and further progress is likely, it may be appropriate to extend the review period by 4-6 weeks. This should only be considered if an extension has not previously been given during the attendance management procedure.
- J If no, or insufficient improvement has been made, the employee will be advised that a [Stage 4 Attendance Management Hearing](#) will be arranged at which the employee could be dismissed.

The employee should receive written confirmation of the outcome of the meeting and a copy of the notes. A template letter is attached at [Appendix K](#).

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Stage 4 - Attendance Management Hearing

If the employee fails to make sufficient improvement by the end of the Stage 3 support plan review period or has not sustained this improvement for the required 12 month period then an Attendance Management Hearing will be convened to consider the case.

The manager will be responsible for arranging a panel, chaired by a Senior Manager (PO Grade or above), supported by a further Senior Manager and a representative from HR Services, who will act as panel members. All of the panel should have had no prior involvement in the employee's case. The manager should also arrange a note-taker.

If a hearing has already been held under Stage 3 of the procedure then, where possible, the same panel should be used for this hearing. The manager should also arrange a note-taker.

Documentation

The manager will write to the employee to notify them of the details of the hearing (date, time, venue, etc.) giving them a minimum of 10 working days notice. A template letter is attached at [Appendix L](#). Whenever possible the date should be arranged in consultation with the employee and their representative.

A copy of any paperwork / evidence folder which the manager intends to refer to at the hearing must also be enclosed. This could include:

- J Brief details of the employee's role and their employment with the Council (include a copy of the employee's job description);
- J Details of the employee's attendance record (including the number of days lost, dates and reasons for absence);
- J How the employee's absence compares with other relevant team members;
- J Copies of self-certification forms (including notes from return to work meetings);
- J Notes of meetings;
- J Letters confirming the outcome of meetings;
- J Copies of support plans;
- J Copies of Occupational Health reports;
- J Copies of fit notes / medical documents;
- J Copy of Final Written Warning (if applicable).

An example attendance management hearing folder contents list can be found at [Appendix G](#). Further information on preparing for the hearing can be found in the [Hearing Preparation Guide](#).

The employee must be informed of their right to be accompanied by a work colleague or Trade Union representative and that a potential outcome of the hearing is dismissal.

The letter to the employee must also request that if they intend to refer to any documentation at the hearing, a copy of this must be sent to the Chair of the panel at least 5 working days before the date of the hearing along with the names of any witnesses they wish to call.

Witnesses

It is the responsibility of the manager to ensure that they invite any witnesses (if required) to attend the hearing. Likewise, it is the employee's responsibility to ensure that they invite any witnesses (if required) to support their case at the hearing. Please note that the employee's Trade Union representative / work colleague can act on behalf of the employee to arrange their attendance at the hearing if permission from the employee has been granted.

Witnesses should only be present at the hearing whilst questions are being asked of them by the employee, their representative, manager and panel members.

Release of Witnesses

Employees who are required to attend an attendance management hearing as a witness **must** be released from duty unless this would have a significant impact on service delivery. Advice should be sought from HR Services before declining such a request.

Failure to Attend

It is important that the employee is made aware that if they fail to attend on a given (or rearranged) date without an acceptable reason, the hearing may go ahead in their absence.

Conduct of the Hearing

1. The Chair of the Panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their case (i.e. the reasons for considering the termination of the individual's employment). They should refer to documents circulated beforehand to evidence their views.
3. The employee and/or their representative may question the Presenting Officer.
4. The panel may question the Presenting Officer.
5. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the hearing. Each witness will be questioned initially by the Presenting Officer, then the employee and / or their representative may question the witness followed by questions from the panel.
6. The employee and/or their representative will outline their case (i.e. the reasons for considering the continuation of the individual's employment). They may refer to documents circulated beforehand.
7. The Presenting Officer may question the employee and their representative.
8. The panel may question the employee and their representative.
9. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the hearing. Each witness will be questioned initially by the employee and / or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
10. The Presenting Officer may make brief concluding remarks.
11. The employee and/or their representative may make brief concluding remarks.
12. The Presenting Officer, the employee, their representative and the note taker will leave the room.
13. Having deliberated on the matters placed before them, the panel will reach their decision and then recall and advise those attending the hearing of the outcome. Before

deciding whether or not an employee's contract of employment should be terminated, the panel will satisfy themselves that every effort has been made by both the manager and the employee to make viable alterations to the working arrangements of the employee concerned (including redeployment). If the employee has a disability then the panel will satisfy themselves that all reasonable adjustments have been identified and considered.

Potential Outcomes

The panel may find that:

-) The employee's level of attendance is acceptable. The attendance management procedure will therefore cease. However, if the improvement is not sustained for 12 months from the end of the review period then the manager may recommence at [Stage 4](#) of the attendance management procedure;
-) It is appropriate to issue the employee with an extension (4-6 weeks) to the review period of the support plan agreed during [Stage 3](#). This should only be considered if an extension has not previously been given during the attendance management procedure. The panel will reconvene at the end of the extension period;
-) The employee's level of attendance is not acceptable. If the panel is satisfied that the employee has been unable to improve their attendance to the required standard, having considered mitigation, including any reasons for the failure to reach the required standard, they will dismiss the employee with notice.

Notification of the Outcome

The employee should receive written confirmation of the outcome of the hearing including details of their right to appeal against the decision. A template letter is attached at [Appendix M](#). If the employee has been dismissed, the letter should include the reason for the dismissal and the employee's termination date. A copy of the notes from the hearing should also be provided.

Right of Appeal

Details of the employee's right of appeal are contained in the [Attendance Management Policy and Procedure](#). Template letters for inviting an employee to an appeal hearing and confirming the outcome are attached at [Appendix I](#) and [Appendix J](#).

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Sick Pay

The period during which sick pay will be paid and the rate payable for any period of absence is calculated by deducting from the employee's entitlement on the first day of absence the total periods of sickness absence during the previous 12 months.

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Next of Kin

If the employee is too unwell to engage in communication then it may be necessary for the manager to communicate and manage the sickness absence through next of kin / power of

attorney. In these circumstances, the employee should be asked to confirm their permission in writing, where possible.

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Complaints Raised During the Attendance Management Process

The Council's [Grievance Policy](#) or [Dignity at Work Policy](#) should not be used for appeals against attendance management decisions or the process itself. These should be dealt with as part of the appeal under the [Appeal Policy and Procedure](#).

If, however, the employee has a complaint against the manager during the course of an attendance management case, they may raise this using either the Council's Grievance Policy or Dignity at Work Policy as appropriate. The attendance management procedure will not cease, but if required, another manager will be brought in to deal with this case.

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Links to the Disciplinary Policy and Procedure

Where absence patterns emerge, or where it is believed that absences are not attributable to genuine sickness, this will be investigated through the [Disciplinary Policy and Procedure](#).

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Appendix A - Sickness Absence Reporting and Certification

First Day

You must telephone your manager at a time you would normally expect them to be available. If your manager is not available, speak to the most senior person available. You should not, unless there is no alternative, leave a message on an answering machine or with another colleague or send an email or a text message. However, if there is no alternative, leave your telephone number with the person you speak to so that your manager can contact you as soon as possible.

In some cases specific arrangements need to be made locally to take account of circumstances such as the need to ring as early as possible so that cover can be arranged.
Your manager will let you know the arrangements that apply to you.

When you telephone your manager will ask:

-) What date you were first unfit for work (this may be a non working day);
-) The reason for your absence.

If appropriate they may also ask whether your absence is due to:

-) A hospital/medical appointment;
-) Disability related absence;
-) An accident at work;
-) An accident involving a third party (e.g. road accident).

Managers should agree with employees how often they are to make contact if the absence is likely to continue beyond one day. This will usually be on a daily basis so that cover arrangements can be made however the minimum arrangements detailed below should be followed.

If your absence continues

On Day 4* you must telephone your manager again. This is so that your manager can assess the need for cover or to reallocate your work if necessary.

On Day 8* you must obtain a fit note, telephone your manager to let them know how long you have been signed off work for and post the note to your manager as soon as possible.

*Non working days count e.g. for a Monday-Friday worker absent from Friday, Day 4 is Monday and Day 8 is Friday.

If your absence is long enough to require another fit note you must keep your manager informed so that cover and work reallocation arrangements can continue.

When you return to work

A [Self-Certification e-form](#) must be completed and submitted by the employee.

Sickness Absence during Annual Leave

Part 3 of the Green Book provides that employees on annual leave will be regarded as being on sick leave if they have a doctor's certificate to cover that illness. Therefore, to reclaim full contractual annual leave, a doctor's certificate is required as proof of illness.

Appendix B - Absence without Authorisation Letter

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

You have been absent from work without authorisation since [date of absence] and I am growing increasingly concerned for your wellbeing as you have failed to make any contact during this period.

In line with the Attendance Management Policy and Procedure, I have instructed Payroll to stop your pay from the start date of your absence until I receive notification of your wellbeing. This period of absence will be classified as 'Absence without Authorisation'.

Please contact me on [telephone number] upon receipt of this letter to advise me of your current situation.

Yours sincerely,

[Name of manager]
[Job Title]

Appendix C - Example Support Plan

SUPPORT PLAN: ATTENDANCE

DATE OF PLAN: 30th April - 25th June 2014

Employee:	Mary Roberts	Manager:	Ken Smith	
Areas of Concern	What needs to be achieved	How this will be achieved	Who is responsible	Timescales
Continued long term absence from work (absent since 31 January 2014).	Return to work within support plan timeframe (on therapeutic or substantive hours). On going reduction in absences.	Mary to attend work as required.	Mary	8 weeks and ongoing
	To consider if any adjustments are required to support Mary's return, either in working hours or duties.	Referral to be made to Occupational Health.	Ken	8 weeks and ongoing
Mary has said that she is still suffering from low mood, has trouble sleeping and interacting on a daily basis.	Mary to contact her GP to seek advice as necessary and to keep Ken informed of any medical issues that he needs to be aware of.	Mary to update Ken following her GP appointment next week.	Mary	8 weeks and ongoing
	To consider a self referral to the Wellbeing Service.	Mary to contact the Wellbeing Service as required.	Mary	8 weeks and ongoing
Maintain contact during Mary's absence	Ensure that regular contact is maintained throughout Mary's absence from work.	Ken to contact Mary on a weekly basis by phone. Mary to contact Ken as	Ken / Mary	8 weeks

		necessary to update him on progress.	
--	--	--------------------------------------	--

I agree that I will commence this plan with effect from [date] and I understand that failure to achieve the required level of improvement will result in me progressing to Stage [number] of the Attendance Management Policy and Procedure.

I also understand that, should I achieve the required level of attendance and therefore formal procedures will cease, failure to maintain this improvement for [6/9/12] months may result in formal procedures recommencing at Stage [number].

It is acknowledged that during the course of this support plan under stage [number] of the Attendance Management Policy and Procedure you may be unable to return to work. However as your employer we reserve the right to manage your attendance and progress your case to the next stage of the procedure if you have not returned to work. This support plan is also in place to provide you with support during your absence from work.

Any further support identified:

Review dates: [enter date(s) of mid-review meeting(s)]

Mid Point Review Meeting: 28th May 2014

Final Review Meeting Date: 27th June 2014

If you do not return a signed copy of this plan within 7 days it will be assumed that you are in agreement with its contents.

Signed:

Employee: _____ Manager: _____
Mary Roberts Ken Smith

Appendix D - Invitation to Formal Attendance Management Meeting (Stage 2)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

At our meeting on [date], under Stage 1 of the Attendance Management Policy and Procedure, I advised you that as I have ongoing concerns regarding your level of attendance it is now necessary to manage you under Stage 2 of the procedure. I would therefore like to invite you to attend a Formal Attendance Management Meeting at [time] on [date] in [location].

The purpose of this meeting is to discuss the following concerns that I have regarding your attendance and to consider ways in which this could be improved:

[List areas of concern]

At the meeting, you will have the opportunity to provide an explanation as to why your attendance is not meeting expectations. If you wish, you may be accompanied by a work colleague or Trade Union representative.

To date you have been issued with a [number] week support plan, a copy of which I have enclosed for your information. During the meeting we will review the contents of this plan and draw up a new plan identifying possible support mechanisms, the level of improvement required and the timescale in which this should be achieved.

At the end of the support plan period, a review meeting will be held. There are three potential outcomes of this meeting:

-) If sufficient improvement has been made, the attendance management procedure will cease. Failure to sustain this improvement for 9 months from the end of the review period may result in the attendance management process recommencing at Stage 3 (Formal Action);
-) If some improvement has been made and further progress is likely, it may be appropriate to extend the review period;
-) If no, or insufficient improvement has been made, a Stage 3 Attendance Management Hearing will be arranged at which you could be issued with a Final Written Warning. Please note that in the case of long term sickness absence, if medical reports indicate that a return to work is not possible within a reasonable timescale and all other avenues of support have been

exhausted then a Stage 4 Attendance Management Hearing will be arranged, a potential outcome of which could be dismissal.

A copy of the Attendance Management Policy and Procedure is enclosed for your information.

If you, or your representative, require any special arrangements in order to attend the meeting on [date], please let me know as soon as possible so that I can facilitate these for you.

Please do not hesitate to contact me on [telephone number] if you have any questions regarding the contents of this letter.

Yours sincerely,

[Name of manager]

[Job Title]

Appendix E - Outcome of Stage 2 (Formal Action)

NB: If the employee has failed their support plan please use Appendix F to confirm the outcome and invite them to attend a Stage 3 Attendance Management Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the review meeting held on [date] under Stage 2 of the Attendance Management Policy and Procedure.

The purpose of this meeting was to review your progress against the contents of the support plan which was agreed at the Formal Attendance Management Meeting on [date].

[Delete options below as appropriate]

Option One

As I advised at the meeting, I am pleased to be able to confirm that you have achieved the required level of improvement in your attendance. The attendance management procedure will therefore cease.

I hope that you will continue to maintain this improvement. As discussed at the review meeting, if you fail to sustain this improvement for a 9 month period from the end of the review period then it may be necessary to recommence managing your attendance at Stage 3 of the Attendance Management Policy and Procedure.

Option Two

As I advised at the meeting, I am pleased to be able to confirm that you have made some improvement towards achieving the required level of attendance. We therefore agreed that we would extend your support plan by [number] weeks. The review period will therefore now end on [date].

As agreed at the meeting, we will hold a further review meeting on [date] at [time] in [location].

Please find enclosed a copy of the notes taken at the meeting for your information. If you have any questions regarding the contents of this letter, please do not hesitate to contact me on [telephone number].

Yours sincerely,

[Name of manager]

[Job Title]

Appendix F - Invitation to Attendance Management Hearing (Stage 3)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the review meeting held on [date] under Stage 2 of the Attendance Management Policy and Procedure. The purpose of this meeting was to review your progress against the contents of the support plan which was agreed at the Formal Attendance Management Meeting on [date].

As I advised at the meeting, you have failed to achieve the required level of improvement in your attendance. It is therefore now necessary to convene an Attendance Management Hearing.

The hearing will take place at [time] on [date] in [location] and will be heard by [name, job title], and [name, job title]. Also present will be [name] to take notes. On arrival you should report to [location] and ask for [name].

I will present the management case at the hearing and enclosed is a copy of the documents that I will refer to. During the course of the hearing you will have the right to hear and question the evidence presented. You will also have the opportunity to present your case and may, if you wish, be accompanied by a work colleague or Trade Union representative.

The purpose of the hearing is to consider the steps taken to improve your attendance and your progress against the support plans put in place previously.

If the panel is satisfied that you have been given every opportunity to improve your attendance, but the standard has still not been reached, you will be issued with a Final Written Warning which will remain on your file for 12 months.

Any documentation that you wish to refer to during the hearing must be provided to [name of Chair of panel] at [address] no later than 5 days before the hearing, along with the names of any witnesses you intend to call to support your case. Please note that it is your responsibility to invite your witnesses to attend the hearing. Your Trade Union representative or work colleague may act on your behalf to contact these witnesses if permission from yourself has been granted. [For your information, I will be calling the following witnesses: [name(s)]].

If you, or your representative, require any special arrangements in order to attend the hearing, please let me know as soon as possible so that I can facilitate these for you.

Please note that failure to attend the hearing without an acceptable reason may result in the hearing going ahead in your absence.

If you have any questions regarding the contents of this letter, please do not hesitate to contact me on [\[telephone number\]](#).

Yours sincerely,

[Name of manager]

[Job Title]

Appendix G - Example Hearing Contents Page

This template is to provide managers with a framework on how to structure panel hearing folders. It is not intended to be prescriptive and can be adapted to suit managers' individual requirements.

Name of employee
Attendance Management Hearing
Date and venue of hearing

Panel Members:

[Name, Job Title] (Chair)
[Name, Job Title] (HR Representative)

Presenting Officer: [Name, Job Title]

Section 1 Attendance Management Policy

- 1.1 Attendance Management Policy and Procedure
- 1.2 Hearing Format

Section 2 Employment Details

- 2.1 Employee Summary (Job Title, Grade, Hours, Location)
- 2.2 Contract of Employment
- 2.3 Job Description

Section 3 Correspondence

- 3.1 Invite to Formal Attendance Management Meeting on [date]
- 3.2 Outcome of Stage 2 review meeting on [date]
- 3.3 Invite to Stage 3 Attendance Management Hearing on [date]
- 3.4 Outcome of Stage 3 Attendance Management Hearing on [date]
- 3.5 Invite to Stage 4 Attendance Management Hearing on [date]

Section 4 Notes of Meeting / Evidence

- 4.1 Copy of support plan (Stage 1)
- 4.2 Notes from Formal Attendance Management Meeting on [date]
- 4.3 Copy of support plan (Stage 2) covering [dates]
- 4.4 Notes from review meeting (Stage 2) on [date]
- 4.5 Notes from Attendance Management Hearing (Stage 3) on [date]
- 4.6 Copy of support plan (Stage 3) covering [dates]
- 4.7 Notes from review meeting (Stage 3) on [date]

Section 5 Supplementary Information

- 5.1 Absence information (e.g. list / chart showing dates, reasons, etc.)
- 5.2 Comparative absence data / departmental targets
- 5.3 Advice from Occupational Health
- 5.4 Redeployment information

Appendix H - Outcome of Attendance Management Hearing (Stage 3)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the Attendance Management Hearing held on [date] which was heard by me, [name, job title] and [name, job title]. Also present were [name] as your representative and [name] as note-taker.

The purpose of the hearing was to consider the steps made to improve your attendance and your progress against the support plan put in place at the Attendance Management Meeting (Stage 2) on [date].

[Delete options below as appropriate]

Option One

Having considered the evidence provided at the hearing, the panel have decided that your attendance meets the expected level. The attendance management procedure will therefore cease. However, if the improvement is not sustained for a period of 12 months from the end of the review period then your manager may recommence managing your attendance at Stage 4 of the Attendance Management Policy and Procedure.

Option Two

Having considered the evidence provided at the hearing, the panel have decided that you should be issued with a [number] week extension to the support plan review period agreed during Stage 2.

As agreed at the hearing, the panel will reconvene at [time] on [date] in [location] to consider your progress against the support plan during this period.

Option Three

Having considered the evidence provided at the hearing, the panel have decided that your level of attendance is not acceptable and therefore you will be issued with a Final Written Warning. This will remain on your file for 12 months.

Your manager will meet with you within the next 7 days to agree a further support plan and review period with you. If you fail to achieve the required level of improvement in your attendance by the end of the support plan review period then a Stage 4 Attendance Management Hearing will be arranged. A possible outcome of this hearing may be the decision to terminate your contract of employment.

I have enclosed a copy of the Appeal Policy and Procedure along with an appeal registration form. You have the right to appeal against the decision to issue you with a Final Written Warning. If you wish to appeal please complete and return the appeal registration form to myself within 7 working days of receiving this letter.

A copy of the notes taken at the hearing is enclosed for your information.

Yours sincerely,

[Name of chair]
[Job Title]

ATTENDANCE MANAGEMENT PROCEDURE - FINAL WRITTEN WARNING

Name:

Job Title:

1. Date Issued

This warning was issued at the Attendance Management Hearing (Stage 3) on [date].

2. Status of Warning

This is a final written warning issued under the Attendance Management Policy and Procedure.

3. Nature of Offence

You were issued with this warning as you had failed to achieve the required level of improvement in your attendance.

4. Improvements Required

Following the Attendance Management Hearing a further support plan was agreed to support you to improve your attendance. You are therefore required to achieve the improvements as set out in the plan and to maintain this improvement in your attendance for a 12 month period.

5. Support to be Given

Details of the support that will be provided to you are set out in the agreed support plan. If you feel that additional help or support could be provided, please speak to your manager.

6. Retention of Warning on Personal File

A copy of this warning will be kept on your personal file for 12 months from [date of Attendance Management Hearing].

7. Consequences of Failure to Maintain

Failure to achieve and maintain the requirements set out in paragraph 4 above will result in an Attendance Management Hearing (Stage 4) being convened. If the panel is satisfied that you have been given every opportunity to improve your attendance, but the standard has still not been reached, your contract of employment will be terminated.

Acknowledgement of Final Written Warning

I acknowledge that I have been given a final written warning under the Attendance Management Policy and Procedure. I have read and understood the contents of this warning.

Signed: _____

Date: _____

Print Name: _____

Appendix I - Invitation to Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

Following receipt of your appeal under the Attendance Management Policy and Procedure against your [final written warning / dismissal], I am writing to invite you to attend an appeal hearing. Your appeal will be heard by [name, job title], and [name, job title] at [time] on [date] in [location]. [Name] will also be in attendance to take notes. On arrival you should report to [location] and ask for [name].

You may, if you wish, be accompanied at the hearing by a work colleague or Trade Union representative.

Enclosed for your attention is a copy of management's response to your appeal statement, along with supporting documents. I will be in attendance at the hearing to present the management case. [For your information, management will be calling [name(s)] as their witness].

The outcome of the appeal hearing will be to either:

- Uphold the original decision taken and maintain any sanction;
- Overturn the original decision and implement a new decision along with any appropriate sanction/action.

Please be advised that the decision of the appeal hearing will be final and there is no further right of appeal.

I would be grateful if you would please confirm that you are able to attend the hearing. Please note that failure to attend without an acceptable reason may result in the hearing going ahead in your absence.

If you, or your representative, require any special arrangements in order to attend the hearing, please contact me as soon as possible so that I can facilitate these for you.

If you have any questions regarding the contents of this letter, please do not hesitate to contact me on [telephone number].

Yours sincerely,

[Name of manager]
[Job Title]

Appendix J - Outcome of Appeal Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the Attendance Management Appeal Hearing held on [date] which was heard by me, [name, job title] and [name, job title]. Also present was [name] as your representative and [name] as note-taker.

You appealed against the decision made at the Attendance Management Hearing on [date]. The reason for your appeal was [reason].

Having considered the evidence provided at the hearing, the panel have decided to [uphold the original decision to issue you with a final written warning / terminate your employment] or [overturn the original decision to issue you with a final written warning / terminate your employment]. Include details of any additional actions/ recommendations and reasons for decision.]

The decision of the appeal hearing is final and there is no further right of appeal.

Yours sincerely,

[Name of Chair of panel]
[Job Title]

Appendix K - Outcome of Stage 3 (Final Action)

NB: If the employee has failed their support plan please use Appendix L to confirm the outcome and invite them to attend a Stage 4 Attendance Management Hearing

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the review meeting held on [date] under Stage 3 of the Attendance Management Policy and Procedure.

The purpose of this meeting was to review your progress against the contents of the support plan which was agreed following the Attendance Management Hearing on [date].

[Delete options below as appropriate]

Option One

As I advised at the meeting, I am pleased to be able to confirm that you have achieved the required level of improvement in your attendance. The attendance management procedure will therefore cease.

I hope that you will continue to maintain this improvement. As discussed at the review meeting, if you fail to sustain this improvement for a 12 month period from the end of the review period then it may be necessary to recommence managing your attendance at Stage 4 of the Attendance Management Policy and Procedure.

Option Two

As I advised at the meeting, I am pleased to be able to confirm that you have made some improvement towards achieving the required level of attendance. We therefore agreed that we would extend your support plan by [number] weeks. The review period will therefore now end on [date].

As agreed at the meeting, we will hold a further review meeting on [date] at [time] in [location].

Please find enclosed a copy of the notes taken at the meeting for your information. If you have any questions regarding the contents of this letter, please do not hesitate to contact me on [telephone number].

Yours sincerely,

[Name of manager]
[Job Title]

Appendix L - Invitation to Attendance Management Hearing (Stage 4)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the review meeting held on [date] under Stage 3 of the Attendance Management Policy and Procedure. The purpose of this meeting was to review your progress against the contents of the support plan which was agreed following the Attendance Management Hearing on [date].

As I advised at the meeting, you have failed to achieve the required level of improvement in your attendance. It is therefore now necessary to convene a further Attendance Management Hearing.

The hearing will take place at [time] on [date] in [location] and will be heard by [name, job title], [and [name, job title]]. Also present will be [name] to take notes. On arrival you should report to [location] and ask for [name].

I will present the management case at the hearing and enclosed is a copy of the documents that I will refer to. During the course of the hearing you will have the right to hear and question the evidence presented. You will also have the opportunity to present your case and may, if you wish, be accompanied by a work colleague or Trade Union representative.

The purpose of the hearing is to consider the steps taken to improve your attendance and your progress against the support plans put in place previously.

If the panel is satisfied that you have been given every opportunity to improve your attendance, but the standard has still not been reached, you will be dismissed from the Council's employment with notice.

Any documentation that you wish to refer to during the hearing must be provided to [name of Chair of panel] at [address] no later than 5 days before the hearing, along with the names of any witnesses you intend to call to support your case. Please note that it is your responsibility to invite your witnesses to attend the hearing. Your Trade Union representative or work colleague may act on your behalf to contact these witnesses if permission from yourself has been granted. [For your information, I will be calling the following witnesses: [name(s)]].

If you, or your representative, require any special arrangements in order to attend the hearing, please let me know as soon as possible so that I can facilitate these for you.

Please note that failure to attend the hearing without an acceptable reason may result in the hearing going ahead in your absence.

If you have any questions regarding the contents of this letter, please do not hesitate to contact me on [telephone number].

Yours sincerely,

[Name of manager]

[Job Title]

Appendix M - Outcome of Attendance Management Hearing (Stage 4)

STRICTLY PRIVATE AND CONFIDENTIAL

[Name]
[Address]
[Date]

Dear [Name],

I am writing to confirm the outcome of the Attendance Management Hearing held on [date] which was heard by me and [name, job title]. Also present were [name] as your representative and [name] as note-taker.

The purpose of the hearing was to consider the steps made to improve your attendance and your progress against the support plan put in place following the Attendance Management Hearing (Stage 3) on [date].

[Delete options below as appropriate]

Option One

Having considered the evidence provided at the hearing, the panel have decided that your attendance meets the expected level. The attendance management procedure will therefore cease. However, if the improvement is not sustained for a period of 12 months from the end of the review period then your manager may recommence managing your attendance at Stage 4 of the Attendance Management Policy and Procedure.

Option Two

Having considered the evidence provided at the hearing, the panel have decided that you should be issued with a [number] week extension to the support plan review period agreed during Stage 3.

As agreed at the hearing, the panel will reconvene at [time] on [date] in [location] to consider your progress against the support plan during this period.

Option Three

Having considered the evidence provided at the hearing, you have been given a full opportunity to improve your level of attendance and have failed to do so. The panel's decision is therefore that you will be dismissed on the grounds of unsatisfactory attendance.

As this is not summary dismissal, you are entitled to [duration] paid notice from the date of the hearing and therefore your employment will terminate on [date]. You [are/are not] required to work this notice. Your P45 will be forwarded to you shortly.

You are required to return any property which is still in your possession and [name] will be in contact with you to arrange this.

I have enclosed a copy of the Appeal Policy and Procedure along with an appeal registration form. You have the right to appeal against this decision and should complete and return the appeal registration form to myself within 7 working days of receiving this letter.

Should you decide to appeal, the effect of the dismissal will still stand i.e. you will remain dismissed pending the outcome of the appeal hearing.

A copy of the notes taken at the hearing is enclosed for your information.

Yours sincerely,

[Name of chair]

[Job Title]

Report of the Head of Strategic Support

ITEM: Disability Leave Guidance

Purpose of Report

To gain the Joint Consultative Committee's approval to introduce a revised Disability Leave Guidance document. These changes were agreed with SMT on 1 February 2017.

Recommendation

That the revised version of the Council's Disability Leave Guidance, proceed to Personnel Committee for formal approval and adoption.

Reason

To gain agreement on the revised Disability Leave Guidance document. The trade unions confirmed at JMTUM on 18 May 2017 that they did not agree to the revised Disability Leave Guidance. . Informal consultation meetings have been held with Unison in attendance on 23 May 2017 and GMB and Unison on 18 July 2017. Unite were unable to attend this meeting.

Background

The Council currently has a Disability Leave Scheme in place. The date of implementation of this guidance is not set out within the document.

Disability Leave is a reasonable adjustment used within the Council to support disabled employees. Unison has previously expressed the view that they feel the current policy is unclear. Management also agreed that the current document is ambiguous in part and does not support consistent interpretation. Therefore the council feels it is of benefit to all to further clarify the principles of disability leave in the proposed revised guidance document.

The Attendance Management Policy and Guidance was updated and agreed at Personnel Committee on 4 August 2015. The Attendance Management documents support managers in managing all employee sickness related absence, and in addition provides guidance to managers in considering reasonable adjustments. Disability Leave is one of many reasonable adjustments that can be considered. However, disability leave should not be used to cover disability related sickness absence.

Disability Leave is time off work that may be granted to a disabled employee as a reasonable adjustment for assessment, treatment or rehabilitation (involving a medical programme designed to restore the ability to work) which is related to the employee's disability.

The policy outlines some examples of the reasons for disability leave which include (but are not limited to):

- _) Assessment for conditions such as dyslexia
- _) Hearing aid tests
- _) Training with a guide or hearing dog
- _) Physiotherapy
- _) Having equipment serviced or fitted.

It is proposed that a disabled employee may apply to take up to 10 occasions' paid disability leave (pro rata for part time) in a rolling 12 month period and the leave may be taken in full or part days or hours depending on circumstances.

The amended policy confirms that disability leave should be pre-arranged and is for a specified period of time. Furthermore, managers expect to see evidence of the appointment to enable appropriate arrangements to be made in relation to time required for the appointment.

Disability leave will continue to be managed on a case by case basis, as the Council recognises that employees' disabilities, circumstances and personal management strategies vary considerably.

In order to manage an employee's disability leave request effectively, a form has been implemented which an employee must complete prior to requesting disability leave.

Informal Consultation Meetings

23 May 2017

An informal consultation meeting was held on the 23 May 2017 with Unison. GMB were unable to attend this meeting. At this meeting Unison were keen to discuss the current policy, and objected to the proposed policy. Discussions were held around the differences between disability related sickness absence and disability leave. The Council confirmed their view that the two are different with disability related sickness absence being addressed under the Attendance Management Policy and Disability Leave under Disability Leave Guidance.

Agreement was not reached to move forward with the revised Disability Leave Guidance, and it was agreed a further informal meeting would be held.

18 July 2017

A further informal consultation meeting was held with Unison and GMB. Unite were unable to attend this meeting.

Prior to attending this meeting, Unison had submitted some additions and amendments to the current Disability Leave Guidance. The Council clarified that in their view Unison's amendments did not provide greater clarity on the application of that policy.

Once again discussions were held around the differences between disability related sickness absence and disability leave.

At that meeting, management made it clear that they were willing to listen to different proposals about the number of occasions of disability leave and the process for booking disability leave. However, the Unions did not want to negotiate on the new policy. Their preference is to retain the existing policy. It is the view of the Council that the proposed policy is clear and outlines how disability leave is applied at the Council.

It was decided that as agreement could not be reached, the Disability Leave Guidance document would be presented to JNCC.

Recommendations

It is recommended that JMTUM accept the proposed revised Disability Leave Guidance.

List of Appendices

Appendix A - Disability Leave Guidance

Appendix B – Current Disability Leave Scheme

Appendix C – Attendance Management Policy and Procedure

Appendix D – Attendance Management Guidance

Officer to contact: Adrian Ward

Telephone: (01509) 634573

Email: adrian.ward@charnwood.gov.uk

JOINT NEGOTIATING CONSULTATIVE COMMITTEE – 30TH AUGUST 2017

Report of the Trade Unions

ITEM 04: SUBMISSION BY THE TRADE UNIONS - DISABILITY LEAVE GUIDANCE

Report to Joint Negotiation and Consultation Committee

Introduction

This is a plea to the elected representatives of the Council from a handful of staff who suffer from recognised disabilities. These are amongst the hardest working members of staff. Two of these people are known to me and are UNISON members. They suffer from diabetes, epilepsy and gastroparesis. Currently they feel persecuted and are persecuted for being disabled because the current Scheme is not applied as it should be, and as it is written. At the moment we have a flexible and generous Scheme that your HR contractor unilaterally refuses to implement correctly. This was the reason for UNISON requesting a revision to the current Scheme. The proposed “Guidance” removes most of the benefits of the “Scheme”. It is inflexible. Granting disability leave is an ethical issue that requires Councillors to step in and throw out its contractors proposal.

The 5 or 6 individuals affected by your decision today need your help and support to have unavoidable absences recorded as disability leave and not as sickness. Sickness absence triggers the added stress of the Attendance Policy and all the meetings and paperwork that goes with it. With a workforce of 500 people, any cost of applying the current Scheme to the Council is negligible.

Disability Leave Scheme

Why is the current Scheme being revised?

The Scheme, as written, has the flexibility that is needed but parts are clumsily written; this has led management to “cherry-pick” the contents and not apply the provisions as generously as intended. Therefore, UNISON requested that the current Scheme be revised to make it clearer.

The proposed guidance removes much of the generosity and spirit of the Scheme. It’s clear that the current Scheme was carefully written to ensure “flexibility”; this is to ensure that all disabled people are treated compassionately and equally no matter what their disability might be. No conditions are excluded and pre-arrangement is preferred but not essential.

When was the current Scheme created?

The current Scheme was presented to the Personnel Committee on 24.01.2008 where it was withdrawn to enable an Equality Impact Assessment to be carried out. It was then taken to the next meeting of the Personnel Committee and approved at that meeting 28.02.2008. The Committee was Cllrs. Shepherd, Jane Hunt, Bush, Preston, Slater and Wilson.

The current Scheme begins by making a firm commitment to disabled staff:

Introduction - commitment to equal opportunity

The Council is committed to the elimination of all forms of unfair and unlawful discrimination both in the provision of services and in its role as an employer. It is our belief that everyone has the right to be treated with dignity and respect. We are committed to, and will work towards, the elimination of unfair and unlawful discrimination against disabled people to ensure equal treatment in all our procedures, practices and access to Council services.

My question is, "What has changed since the Equalities Act 2010 that requires the Council to reduce the provisions in the current Scheme" Nothing.

HR have said that the current Scheme goes beyond the legal requirement. The Council should be applauded for doing so. The Council voluntarily goes beyond the legal requirement in lots of instances, most recently in voluntarily adopting the Dying to Work Charter.

HR have said that the Scheme is out of date and not suitable "in the current environment". What environment?

Are staff with a disability any less disabled or less in need of support now than they were when the current Scheme was voluntarily entered into? No.

Does the Council want to treat some disabled people less favourably than others? I doubt it. The current Scheme recognises that some people need more support from their employer than others.

The role of HR

As a contractor, Leicestershire CC HR regularly update policies and procedures and the unions understand and accept this. The unions have requested the updating of a Disability Leave Scheme (2008) that has been wilfully misapplied by HR. Having met the legal minimum any further provision to support disabled employees is an ethical issue, and therefore it is for Councillors to decide. Not the Council's contractor.

It begs the question whether the Council's recent commitment to the Dying to Work Charter will be eroded in 9 years' time?

Who is affected by this?

At JMTUM it was agreed that "a handful of staff" apply for disability leave each year. I'm aware of two of these staff. At the meeting on 23rd May HR stated that if the proposed guidance was more generous, more people would apply. Firstly, the current Scheme has not led to a flood of applications, and the unions are not requesting anything that is not already in the Scheme. Secondly, why should the Council want to discourage applications from disabled staff? Gayle went onto say that some people with disabilities use flexitime. The flexitime scheme was not introduced so that disabled staff should be forced to build up credit to attend disability related absence. It is unfair to expect staff to use up flexitime and annual leave because they have a disability.

The Council encourages job applications from disabled people and should make every effort to support them through their probation period and through their ongoing service.

You have before you the current Scheme, the proposed Guidance, and the current Scheme as amended by UNISON for the purposes of this meeting.

At JMTUM the proposed Guidance was described by Gayle as being similar to the current Scheme with the main change being the reduction in the entitlement from 15 days to 10 days per annum. Please read the documents as you will see that the guidance omits many of the provisions of the current Scheme. The elements that are absent from the proposed guidance are highlighted.

Purpose of the Disability Leave Scheme

The Council recognises that disabled employees may have cause to be absent from work for disability-related reasons. These may include (but are not limited to) absences for consultant's appointments, physiotherapy, hearing aid adjustments/replacements, counselling/therapeutic treatment. There may also be disabled employees that have cause to be absent from work on an irregular and unpredictable basis due to impairment caused by their disability.

The Proposed Guidance states "Disability Leave should be pre-arranged and is for a specific period of time." The current Scheme recognises the reality of living with disability. How can staff predict a seizure that leads to a fall down stairs or biting off their tongue?

This may be due to (but is not limited to) chronic fatigue and adjustment to new medication, for example.

There can also be circumstances whereby there is a newly disabled employee, or a disabled employee whose condition has deteriorated, who requires a period of time off work to adjust to the change in personal and professional circumstances. During this period of leave, both the Council and the employee are able to assess the disability or condition and how it affects the job role, bridging the gap between a period of sickness that may have occurred and a return to work. This may be where an employee has had an operation and requires a period of recuperation or rehabilitation afterwards, for example.

Again, a period of recuperation following a disability related operation may well be unpredictable and it is not possible to pre-arrange disability leave.

It is recognised, therefore, that in all these circumstances the application of the Attendance Management Policy and Procedure will not be appropriate. The purpose therefore of this Scheme is to ensure there is a consistent and fair mechanism to supplement sickness absence procedures with specific provisions for paid Disability Leave.

According to the current Scheme, Attendance Management should be suspended for up to 15 days. The Scheme does not prohibit a further request for disability leave. This shows the required flexibility to meet an individual's unique circumstances.

Aims

The disability leave Scheme aims to support employees in managing their ongoing personal needs with a view to sustaining employment and personal well-being.

The Scheme also aims to ensure proper consideration is given to realistically assessing the abilities of the individual with a view to retaining skilled and experienced employees. This may result in a saving on early/ill health retirement payments. It also demonstrates the Council's commitment to positive action towards disabled people which builds employee morale and promotes the Council as an employer striving for equal opportunities to the wider community. It is also a matter of good management practice.

There is no intention that the Disability Leave Scheme should have an unfavourable impact on the effectiveness of the Council. Rather, it is about recognising the fact that many disabling conditions do not make people less efficient workers, but requires them to work in a different way. The Disability Leave Scheme is about ensuring good practice in the workplace and it also aims to create an environment in which employees will feel more willing to discuss the onset of disability.

Any costs incurred as a result of the Disability Leave Scheme should be affordable since there are likely to be very few cases each year.

Definitions

Disability – The Disability Discrimination Act describes disability as “A physical or mental impairment which has a substantial and long term adverse effect on a person's ability to carry out normal day to day activities”. Long term typically means 12 months or more. A disability can include hearing or visual impairments, a learning disability and mental illness. People living with HIV, multiple sclerosis or cancer are covered from the point of diagnosis.

The Proposed Guidance does not include any reference to mental impairment, HIV, multiple sclerosis or cancer while the current Scheme lists these and more importantly states “**The Council recognises that disabled employees may have cause to be absent from work for disability-related reasons. These may include (but are not limited to) ...**”. This clearly shows that any disability qualifies for disability leave.

It should be noted that someone who is no longer disabled, but who met the requirements of the definition in the past, will still be covered by this Policy. For example, a woman who, four years ago, experienced a mental illness that had a substantial and long-term adverse effect on her ability to carry out normal day-to-day activities, but who has experienced no recurrence of the condition, is still entitled to the benefits afforded by this Policy, as a person with a past disability.

Scope

The Scheme will apply to all existing disabled employees, at the point where a disabled person becomes employed or where an existing employee becomes disabled. The Scheme provisions can be considered for all full-time and part-time employees. There is no qualifying period for anyone wanting to be considered for the Scheme, although each case will be treated on its own merits.

The proposed Guidance should include this clause to ensure that staff are not discriminated against. “... **at the point where a disabled person becomes employed**” clearly includes new staff within their probation period.

Procedure

The employee will request a meeting with their line manager and, if possible, HR Advisor in the first instance. The employee will have the right to be accompanied during this meeting by their Trade Union Representative or a work colleague.

The line manager will then make a recommendation to the Service Director and the HR Business Partner. When making the assessment, previous disability-related absences will be taken into account but will not provide either a floor or a ceiling for the period of leave agreed.

This clearly shows that disability leave can be requested in the event that the 15 days has previously been granted.

The relevant **Director** and HR Business Partner can allow up to three weeks continuous paid leave to assist in any adjustment process.

The proposed Guidance should include this clause. Currently line managers are considering requests; this may inadvertently result in discrimination because of a manager's concerns about service delivery. Managers may also be incorrectly influenced by the HR contractor.

Where a request is received for a more ad hoc arrangement, the amount of time granted will depend on the circumstances.

Agreement must be reached in advance in respect of the amount of disability leave to be granted. It may be the leave will be taken on a pre-planned basis however in some instances this may not be possible. If this is the case, every attempt should be made by the disabled employee to give notice to their manager.

The Proposed Guidance prohibits the flexibility that some people require because they cannot pre-arrange disability leave for the reasons previously mentioned. Examples include reaction to medication, seizures, a fall and disabling symptoms being identified while the employee is absent.

What is required is trust and flexibility. With only 5 or 6 people requesting disability leave this should be straightforward. Unions do not condone abuse of Council policy. Abuse of the Scheme is covered below.

Disability Leave is one of a range of possible reasonable adjustments, other options must be considered alongside a request for leave. This includes adjustments to duties and responsibilities, a change of hours, working from home or a different location. It may be that through a process of consultation all parties feel that alternative employment is the favoured option. The Council will consider this only if the employee makes such a request or if reasonable adjustments have been exhausted and no solution found.

Working from home is an underused option.

Recording of Absence

When the disabled employee is off work for a disability-related purpose, the line manager will record the absence as disability leave via People Manager (now itrent).

It is important to record Disability Leave as such, and not as sickness. It distorts sickness absence statistics if wrongly recorded. This is particularly important for a member of staff who is already subject to the Attendance Policy.

In circumstances where the Scheme has been utilised and there are ongoing concerns in relation to the disabled persons employment which may include poor attendance, the provision of disability leave will be taken into account in weighing up an appropriate course of action. However this will be just one factor amongst many. Disability leave will not however be taken into consideration for such things as redundancy selection.

Sickness absences for non-disability related reasons will be recorded in the same way as non-disabled employees.

The unions accept this.

Financial Implication

There can be cost implications for Directorates as follows:-

(i) the provisions of the sick pay Scheme may apply and the Director, in conjunction with the Head of HR can allow up to three weeks additional leave paid at the usual salary/wage. If a more flexible approach to taking leave is agreed the employees absence may need to be covered, possibly with the use of paid overtime for other members of the team.

(ii) the costs associated with loss of productivity during the disabled employees absence and/or with the recruitment and employment of someone who can provide temporary cover.

(iii) the potential costs attached to any assessments carried out depending on the length of the assessment and the agency that undertakes it. The Disability

Employment Advisor (DEA) from the local job centre will assist in identifying the costs involved and how to access the appropriate assessment agency.

Liaison

In order for the Disability Leave Scheme to operate successfully, it is important that all parties meet on a regular basis to ensure everyone is fully aware of progress at each stage. This meetings should be documented and include:

- (i) when any medical prognosis is known and/or medical treatment is completed.
- (ii) advice about dates of an employment assessment if one is recommended.
- (iii) action plan at the conclusion of employment assessment
- (iv) advice about dates of any further action.
- (v) final report on completing a course of rehabilitation, with an action plan if further training is advised.
- (vi) dates of further training courses.

The key people who will be responsible for monitoring the progress of an individual are the line manager, **Service Director**, with support from HR Services.

Directors are currently excluded.

Abuse of the Scheme

Any abuse of the disability leave Scheme will be considered a serious disciplinary offence and may be regarded as Gross Misconduct under the Council's Disciplinary procedures.

The unions fully support this.

Grievances

If the employee feels this Scheme has not been applied in a fair or consistent manner, they can raise a grievance using the Council's Grievance Procedure.

The proposed Guidance does not include provision for an appeal/grievance

Review

The impact and progress of the Disability Leave Scheme will be reviewed from time to time in order to assess its effectiveness from both a personal and organisational perspective. The Council reserves the right to amend or withdraw the Scheme by giving reasonable notice.

It is not the current Scheme that needs to be reviewed but the HR contractor's intentional failure to implement it.

ACAS: Disability discrimination: key points for the workplace

The following are excerpts (Page 23-25) from the ACAS guidance “Disability discrimination: key points for the workplace”.

Again, the elements that are absent from the proposed guidance are highlighted.

Sickness absence

Managing sickness absence so employers do not discriminate against disabled employees is a contentious area where legal opinions can differ. This is particularly so over ‘absence triggers’. These are the number of days’ absence when managers consider warnings, and possibly dismissal, unless attendance at work improves.

An employment tribunal may expect an employer to have modified its ‘absence triggers’, if that would have been a ‘reasonable adjustment’ in the particular circumstances of the individual case. What is ‘reasonable’ can depend on the alteration being sought by the disabled employee for an illness linked to their disability.

An employer is not expected to make unreasonable adjustments to its sickness absence policy and ‘absence triggers’ for a disabled employee. However, employers should bear in mind that disputes over sickness absence linked to disability might be considered under another type of discrimination claim – discrimination arising from disability.

There is a key difference regarding these two types of discrimination:

- a ‘reasonable adjustment’ in the management of sickness absence would be to proportionately modify policies or absence triggers so a disabled employee is not at a disadvantage compared to a non-disabled employee*
 - discrimination arising from disability does not require a disabled employee to compare their treatment to how someone else is treated. Nevertheless, an employer should bear firmly in mind that it must consider and make adjustments which are ‘reasonable’ in the circumstances of an individual case.*
- (IMPORTANT and added to amended Scheme.)*

For example... potentially reasonable adjustments

- Allowing ‘disability leave’ – for instance, for medical treatment, recuperation or rehabilitation, with a time limit agreed between employer and employee, and possibly allowing managers some discretionary flexibility.*
- Recording disability-related sickness absence separately from other illness absence for a time limit agreed between employer and employee, and possibly allowing managers some discretionary flexibility.*
- Discussing changes with the employee, and possibly an expert advisor, so they can return to work – for instance, this might mean a phased return, working from home on some days, going part-time or moving to another role. Assessing whether adjustments would be reasonable should include taking into account not only the impact on the employee, but also on others in their*

team regarding workload and resources. And a ‘reasonable adjustment’ should include:

- making clear, taking into account the employee’s disability, the level of attendance they are expected to meet, and*
- removing uncertainty about taking time off, within an agreed time limit, because of their disability.*

*Some employers have policies separating disability-related sickness absence from other illness absence. And some have a policy allowing ‘disability leave’. They are not legal requirements for employers, but are good practice in the Equality and Human Rights Commission’s Employment Statutory Code of Practice. Such policies are more common in the public sector, and in private or voluntary organisations carrying out work for a public sector employer. This is because of what is called the ‘**public sector equality duty**’ where these employers have a legal duty to prevent and eliminate discrimination. To find out more about the duty, see the companion guide, *Equality and discrimination: understand the basics*. Also, see this guide’s sections, *Disability and capability, and Life-threatening conditions*.*

Summary

On 5th April 2011, the public sector equality duty (the equality duty) came into force. The equality duty was created under the Equality Act 2010. It states:

“The Public Sector Equality Duty requires public bodies and others carrying out public functions to have due regard to the need to eliminate discrimination, to advance equality of opportunities and foster good relations.”

The unions request that the current Scheme be applied as written and not wilfully misinterpreted to the detriment of disabled staff. The unions see no reason for HR to overturn the Council’s generous Scheme of 2008 and replace it with stricter guidance that is without empathy and compassion. The number of staff requesting disability leave is just a handful each year (around 1% of staff), so the cost to the Council of the current Scheme is negligible. The current Scheme includes flexibility for HR, managers and staff. The unions requested clarity while retaining flexibility. Staff with disabilities should not have to use holiday and flexi leave to manage their disabled absences in order to avoid Attendance Management. There needs to be flexibility so that disabled staff with certain impairments are not excluded from disability leave because the type of their impairment means absences are unforeseeable. The Council knows who these people are; the Council knows the conditions that they suffer from and produced a Scheme to support them in work. In simple terms the current Scheme can be summarised as No conditions are excluded and pre-arrangement is preferred but not essential.

The Council should be proud of the current Scheme and not diminish its support for disabled employees or discourage disabled people from coming to work for Charnwood.

APPENDICES: Appendix 1 – Employee Handbook Disability Leave Scheme – amended by Trade Unions

Appendix 2 -- Employee Handbook Disability Leave Scheme – original

Officer to Contact: Colin Bailey
Branch Secretary
Unison Charnwood Branch

Employee Handbook - Absence/Leave

Disability Leave Scheme

Introduction - commitment to equal opportunity

The Council is committed to the elimination of all forms of unfair and unlawful discrimination both in the provision of services and in its role as an employer. It is our belief that everyone has the right to be treated with dignity and respect. We are committed to, and will work towards, the elimination of unfair and unlawful discrimination against disabled people to ensure equal treatment in all our procedures, practices and access to Council services.

Purpose of the Disability Leave Scheme

The Scheme is to outline under what circumstances a disabled employee may be entitled to disability leave and the procedure for requesting and taking the leave.

The Council recognises that disabled employees may have cause to be absent from work for disability-related reasons. These may include (but are not limited to) absences for consultant's appointments, physiotherapy, hearing aid adjustments/replacements, counselling/therapeutic treatment. There may also be disabled employees that have cause to be absent from work on an irregular and unpredictable basis due to impairment caused by their disability.

The council will make adjustments which are 'reasonable' in the circumstances of an individual case. (ACAS)

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This may be due to (but is not limited to) chronic fatigue and adjustment to new medication, for example. There can also be circumstances whereby there is a newly disabled employee, or a disabled employee whose condition has deteriorated, who requires a period of time off work to adjust to the change in personal and professional circumstances. During this period of leave, both the Council and the employee are able to assess the disability or condition and how it affects the job role, bridging the gap between a period of sickness that may have occurred and a return to work. This may be where an employee has had an operation and requires a period of recuperation or rehabilitation afterwards, for example.

It is recognised, therefore, that in all these circumstances the application of the Attendance Management Policy and Procedure will not be appropriate. The purpose therefore of this scheme is to ensure there is a consistent and fair mechanism to supplement sickness absence procedures with specific provisions for paid Disability Leave.

Aims

The disability leave scheme aims to support employees in managing their ongoing personal needs with a view to sustaining employment and personal well-being.

The scheme also aims to ensure proper consideration is given to realistically assessing the abilities of the individual with a view to retaining skilled and experienced employees. This may result in a saving on early/ill health retirement payments. It also demonstrates the Council's commitment to positive action towards disabled people which builds employee morale and promotes the Council as an employer striving for equal opportunities to the wider community. It is also a matter of good management practice.

There is no intention that the Disability Leave Scheme should have an unfavourable impact on the effectiveness of the Council. Rather, it is about recognising the fact that many disabling conditions do not make people less efficient workers, but requires them to work in a different way. The Disability Leave Scheme is about ensuring good practice in the workplace and it also aims to create an environment in which employees will feel more willing to discuss the onset of disability.

Any costs incurred as a result of the Disability Leave Scheme should be affordable since there are likely to be very few cases each year.

Definitions

Disability – The [Disability Discrimination Act/Equality Act 2010](#) describes disability as "a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities". Long term typically means 12 months or more. A disability can include hearing or visual impairments, a learning disability and mental illness. People living with HIV, multiple sclerosis or cancer are covered from the point of diagnosis.

It should be noted that someone who is no longer disabled, but who met the requirements of the definition in the past, will still be covered by this Policy. For example, a woman who, four years ago, experienced a mental illness that had a substantial and long-term adverse effect on her ability to carry out normal day-to-day activities, but who has experienced no recurrence of the condition, is still entitled to the benefits afforded by this Policy, as a person with a past disability.

The [Equality Act Disability Discrimination Act](#) imposes a duty on employers to make "reasonable adjustments". The Council considers the Disability Leave Scheme is a system of ensuring reasonable adjustments are made in that an employee is permitted a period of paid absence during working hours for such things as rehabilitation, assessment or treatment.

Scope

The scheme will apply to all existing disabled employees, at the point where a disabled person becomes employed or where an existing employee becomes disabled. The scheme provisions can be considered for all full-time and part-time employees. There is no qualifying period for anyone wanting to be considered for the scheme, although each case will be treated on its own merits.

Only an employee who is classified as disabled under the [Equality Act DDA](#) will be entitled to avail themselves of the Disability Leave Scheme.

This scheme operates as an addition to the Attendance Management Policy.

Procedure

Any employee who wishes to make use of the Scheme must self-identify as disabled to their line manager. This information will be treated in the strictest of confidence. Should doubt exist in respect of whether the employee is disabled under the [Equality Act DDA](#), a medical opinion will be sought. The Council's decision will be final.

The employee will request a meeting with their line manager and, if possible, HR Advisor in the first instance. The employee will have the right to be accompanied during this meeting by their Trade Union Representative or a work colleague. The employee will provide information regarding the amount of disability related absence that is being requested including the frequency and duration. The purpose of the time off will also be outlined. If there are other additional reasonable adjustments that could be made this will be discussed at this meeting.

The line manager will then make a recommendation to the Service Director and the HR Business Partner. When making the assessment, previous disability-related absences will be taken into account but will not provide either a floor or a ceiling for the period of leave agreed. Both parties will also take into account any improvement or deterioration, actual or anticipated, in the employee's condition and come to a conclusion on a suitable amount of disability leave.

The relevant Director and HR Business Partner can allow up to three weeks continuous paid leave to assist in any adjustment process. Where a request is received for a more ad hoc arrangement, the amount of time granted will depend on the circumstances.

If possible, Agreement must be reached in advance in respect of the amount of disability leave to be granted. It may be the leave will be taken on a pre-planned basis however in some instances this may not be possible. If this is the case, every attempt should be made by the disabled employee to give notice to their manager. Should undue disruption to service delivery occur, the circumstances will be reviewed immediately.

Disability Leave is one of a range of possible reasonable adjustments, other options must be considered alongside a request for leave. This includes adjustments to duties and responsibilities, a change of hours, working from home or a different location. It may be that through a process of consultation all parties feel that alternative employment is the favoured option. The Council will consider this only if the employee makes such a request or if reasonable adjustments have been exhausted and no solution found.

Assessment

It may be deemed appropriate that following a request for disability leave, arrangements are made by HR for an employment assessment to be carried out by a competent organisation. Please refer to the [sickness absence procedure](#)[Attendance Management Policy](#) for further details.

Recording of Absence

When the disabled employee is off work for a disability-related purpose, the line manager will record the absence as disability leave via People Manager.

In circumstances where the scheme has been utilised and there are ongoing concerns in relation to the disabled persons employment which may include poor attendance, the provision of disability leave will be taken into account in weighing up an appropriate course of action. However this will be just one factor amongst many. Disability leave will not however be taken into consideration for such things as redundancy selection [and extending probationary periods](#).

Sickness absences for non-disability related reasons will be recorded in the same way as non-disabled employees.

Agreement

In all Where possible cases where disability leave is requested, it must be agreed in advance. However in some instances this may not be possible. This should include the number of days and the approximate date of the leave. Whilst it may only be an approximate timescale this must be done to ensure continued service delivery.

In arriving at a decision whether disability leave will be granted, these factors must be taken into account:

- Does the employee appear to be disabled as classified under the [DDA Act](#)?
- What is the nature of the disability?
- What will the proposed period of leave do for the employee and the organisation?
- ~~What is the cost and how practicable is the leave in terms of service delivery?~~
- Are there any other more appropriate adjustments that should be made?
- If applicable, what sources of possible funding are available?

Financial Implication

There can be cost implications for Directorates as follows:-

- (i) the provisions of the sick pay scheme may apply and the Director, in conjunction with the Head of HR can allow up to three weeks additional leave paid at the usual salary/wage. If a more flexible approach to taking leave is agreed the employees absence may need to be covered, possibly with the use of paid overtime for other members of the team.
- (ii) the costs associated with loss of productivity during the disabled employees absence and/or with the recruitment and employment of someone who can provide temporary cover.
- (iii) the potential costs attached to any assessments carried out depending on the length of the assessment and the agency that undertakes it. The Disability Employment Advisor (DEA) from the local job centre will assist in identifying the costs involved and how to access the appropriate assessment agency.

Liaison

In order for the Disability Leave Scheme to operate successfully, it is important that all parties meet on a regular basis to ensure everyone is fully aware of progress at each stage. These meetings should be documented and include:

- (i) when any medical prognosis is known and/or medical treatment is completed.
- (ii) advice about dates of an employment assessment if one is recommended.
- (iii) action plan at the conclusion of employment assessment
- (iv) advice about dates of any further action.
- (v) final report on completing a course of rehabilitation, with an action plan if further training is advised.
- (vi) dates of further training courses.

The key people who will be responsible for monitoring the progress of an individual are the line manager, Service Director, with support from HR Services.

Abuse of the scheme

Any abuse of the disability leave scheme will be considered a serious disciplinary offence and may be regarded as Gross Misconduct under the Council's Disciplinary procedures.

Grievances

If the employee feels this scheme has not been applied in a fair or consistent manner, they can raise a grievance using the Council's Grievance Procedure.

Review

The impact and progress of the Disability Leave Scheme will be reviewed from time to time in order to assess its effectiveness from both a personal and organisational perspective. The Council reserves the right to amend or withdraw the scheme by giving reasonable notice.

Employee Handbook - Absence/Leave

Disability Leave Scheme

Introduction - commitment to equal opportunity

The Council is committed to the elimination of all forms of unfair and unlawful discrimination both in the provision of services and in its role as an employer. It is our belief that everyone has the right to be treated with dignity and respect. We are committed to, and will work towards, the elimination of unfair and unlawful discrimination against disabled people to ensure equal treatment in all our procedures, practices and access to Council services.

Purpose of the Disability Leave Scheme

The Scheme is to outline under what circumstances a disabled employee may be entitled to disability leave and the procedure for requesting and taking the leave.

The Council recognises that disabled employees may have cause to be absent from work for disability-related reasons. These may include (but are not limited to) absences for consultant's appointments, physiotherapy, hearing aid adjustments/replacements, counselling/therapeutic treatment. There may also be disabled employees that have cause to be absent from work on an irregular and unpredictable basis due to impairment caused by their disability.

This may be due to (but is not limited to) chronic fatigue and adjustment to new medication, for example.

There can also be circumstances whereby there is a newly disabled employee, or a disabled employee whose condition has deteriorated, who requires a period of time off work to adjust to the change in personal and professional circumstances. During this period of leave, both the Council and the employee are able to assess the disability or condition and how it affects the job role, bridging the gap between a period of sickness that may have occurred and a return to work. This may be where an employee has had an operation and requires a period of recuperation or rehabilitation afterwards, for example.

It is recognised, therefore, that in all these circumstances the application of the Attendance Management Policy and Procedure will not be appropriate. The purpose therefore of this scheme is to ensure there is a consistent and fair mechanism to supplement sickness absence procedures with specific provisions for paid Disability Leave.

Aims

The disability leave scheme aims to support employees in managing their ongoing personal needs with a view to sustaining employment and personal well-being.

The scheme also aims to ensure proper consideration is given to realistically assessing the abilities of the individual with a view to retaining skilled and experienced employees. This may result in a saving on early/ill health retirement payments. It also demonstrates the Council's commitment to positive action towards disabled people which builds employee morale and promotes the Council as an employer striving for equal opportunities to the wider community. It is also a matter of good management practice.

There is no intention that the Disability Leave Scheme should have an unfavourable impact on the effectiveness of the Council. Rather, it is about recognising the fact that many disabling conditions do not make people less efficient workers, but requires them to work in a different way. The Disability Leave Scheme is about ensuring good practice in the workplace and it also aims to create an environment in which employees will feel more willing to discuss the onset of disability.

Any costs incurred as a result of the Disability Leave Scheme should be affordable since there are likely to be very few cases each year.

Definitions

Disability – The Disability Discrimination Act describes disability as "A physical or mental impairment which has a substantial and long term adverse effect on a person's ability to carry out normal day to day activities". Long term typically means 12 months or more. A disability can include hearing or visual impairments, a learning disability and mental illness. People living with HIV, multiple sclerosis or cancer are covered from the point of diagnosis.

It should be noted that someone who is no longer disabled, but who met the requirements of the definition in the past, will still be covered by this Policy. For example, a woman who, four years ago, experienced a mental illness that had a substantial and long-term adverse effect on her ability to carry out normal day-to-day activities, but who has experienced no recurrence of the condition, is still entitled to the benefits afforded by this Policy, as a person with a past disability.

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Agreement must be reached in advance in respect of the amount of disability leave to be granted. It may be the leave will be taken on a pre-planned basis however in some instances this may not be possible. If this is the case, every attempt should be made by the disabled employee to give notice to their manager. Should undue disruption to service delivery occur, the circumstances will be reviewed immediately.

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- If applicable, what sources of possible funding are available?

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(ii) the costs associated with loss of productivity during the disabled employees absence and/or with the recruitment and employment of someone who can provide temporary cover.

(iii) the potential costs attached to any assessments carried out depending on the length of the assessment and the agency that undertakes it. The Disability Employment Advisor (DEA) from the local job centre will assist in identifying the costs involved and how to access the appropriate assessment agency.

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The key people who will be responsible for monitoring the progress of an individual are the line manager, Service Director, with support from HR Services.

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Any abuse of the disability leave scheme will be considered a serious disciplinary offence and may be regarded as Gross Misconduct under the Council's Disciplinary procedures.

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If the employee feels this scheme has not been applied in a fair or consistent manner, they can raise a grievance using the Council's Grievance Procedure.

Review

The impact and progress of the Disability Leave Scheme will be reviewed from time to time in order to assess its effectiveness from both a personal and organisational perspective. The Council reserves the right to amend or withdraw the scheme by giving reasonable notice.

**JOINT NEGOTIATING AND CONSULTATIVE COMMITTEE
30TH AUGUST 2017**

PRESENT: Trade Union Side:

C. Bailey, A. Bamford, I. Cave, K. Moore and A. Severn-Morrell

Management Side:

Councillors Barkley and Poland, G. Baker, A. Ward and S. Jackson

Minutes by N. Conway

APOLOGIES: C. Brown, C. Whyatt and Councillor Slater

1. APPOINTMENT OF CHAIR/VICE CHAIR 2017/18

The Committee was asked to agree a Chair and Vice chair for the 2017/18 Council year. In accordance with the Committee's Constitution, both positions would be appointed from representatives of the Trade Union side.

AGREED that A. Severn-Morrell be appointed Chair and I. Cave be appointed Vice-chair of the Committee for the 2017/18 Council year.

A. Severn-Morrell in the Chair.

2. MINUTES

AGREED that the minutes of the meeting held on 11th January 2017 be confirmed and signed as an accurate record.

3. DISABILITY LEAVE GUIDANCE

Considered a report of the Head of Strategic Support seeking approval of the revised Disability Leave Guidance to proceed to the Personnel Committee, (item 4 on the agenda filed with these minutes). A Trade Union report was submitted by C. Bailey on behalf of the Trade Unions and circulated with the agenda, (filed with these minutes).

In presenting the Management position with respect to the report, S. Jackson stated that it was important to differentiate between disability leave and disability related sickness absence. Disability leave should be planned and managed accordingly and disability related sickness should be considered as part of the Attendance Management Policy. Management were keen to ensure appropriate recording of sickness absence and did not wish to see disability leave being used inappropriately for sickness absence.

In presenting the Trade Union position with respect to their report, C. Bailey highlighted the following concerns:

- the proposed Guidance should be rejected as it lacked many of the provisions of the current scheme and did not have provision for appeal and grievance processes.
- The Council's scheme should be retained and applied as written, as it only applied to a handful of disabled individuals.
- All disability conditions and circumstances should qualify for disability leave and all staff should qualify including those on probation.
- staff should not have to use annual leave and flexitime when they were absent because of their disability and staff should be granted disability leave if circumstances prevented them from applying in advance e.g. seizures, falls.
- Strategic Directors were not being consulted over requests for disability leave.

The Trade Union side made the following comments:

- the current Disability Leave Scheme provided support as required for disabled employees and was flexible and generous. The proposed Disability Leave Guidance did not show flexibility; the Public Sector Equality Duty which came into force in April 2011 stated that Councils should go above and beyond their statutory duty.
- disability related absences should not be counted towards sickness absence statistics or be managed by the Attendance Management policy, as was being proposed.
- disability leave could not always be pre-arranged and this was accepted within the terms of the current Scheme. There were occasions where it might not be possible to complete the Leave request form which could result in an employee missing an appointment for example.
- if a request for disability leave was refused the employee, by taking sickness absence, could be taken through the Attendance Management policy. It was the Trade Unions' view that someone who was already unwell going through this process, would be under significant stress and wouldn't necessarily have the strength to raise a grievance and appeal, and would be more likely to resign.
- the Trade Union side believed there was a lack of consistency with respect to how managers were instructed to apply the current Disability Leave Scheme and it was feared this could be exacerbated by the proposed Guidance.
- the Trade Union side considered that a prospective employee, reading the current Disability Leave Scheme would be more likely to want to work for the Council, but not if they were to read the proposed Guidance.

The Management side made the following comments in response:

- the proposed Guidance and amendments to the Attendance Management Policy were specifically designed to enable employees to manage their disability, to get medication arranged or treatment to enable them to return to work. It was in addition to other leave and able bodied staff would not be entitled. In their view, the amendments to the Attendance Management Policy covered points referred to in the TU report and the highlighted ACAS sections.
- all employees within the Council should be treated with dignity and respect, irrespective of their disability status. If an employee felt persecuted they should initiate the grievance process.
- if an employee was absent through disability this should be recorded as sickness absence and would be recorded in iTrent as disability related sickness. The Management side considered that it was possible to request Disability Leave in advance of the requirement for treatment.
- the number of occasions granted as disability leave as proposed in the new Guidance had been based on case studies and customer practice. There would be some Management discretion with respect to the numbers of leave periods granted but a limit had to be set.
- The Leave request form would enable the Council to record accurate absence and disability related leave data. In exceptional circumstances the time required for completing the form could be flexible.
- The Disability Leave Guidance and Attendance Management Policy were not available to the public on the Council's website so it was difficult to see how this could affect potential future employees.

Members of the Committee were confused about the number of occasions allowed for disability leave as indicated in the current scheme and proposed guidance documents. It was clarified that the current Disability Leave Scheme granted up to 3 weeks of continuous paid leave to assist in any adjustment process. The proposed Disability Leave Guidance granted up to 10 occasions paid disability leave which could cover more than 1 day as one occasion.

AGREED

1. that the following amendments be made to the proposed Disability Leave Guidance:
 - (a) the number of occasions be clarified to explain that one occasion could consist of more than one day;
 - (b) the addition of the wording 'in exceptional circumstances' with respect to form completion and numbers of occasions taken to improve flexibility of the application of the guidance when unavoidable absences cannot be pre-arranged;

- (c) that Strategic Directors be included in the process and consulted on disability leave requests to ensure consistency of application throughout a directorate.
 - (d) the wording of the proposed Disability Leave Guidance be reviewed to ensure it maintained the compassionate spirit of the current Scheme.
2. that the Human Resources Manager provide the Trade Unions with a copy of an updated proposed Disability Leave Guidance by 15th September 2017;
 3. that the Trade Unions review the new proposed Disability Leave Guidance within a suitable time frame to enable officers to submit a final Disability Leave Guidance to the next Personnel Committee meeting to be held on 17th October 2017 for consideration with:
 - (a) either the Trade Unions' agreement or,
 - (b) in the case of non-agreement, that the Trade Unions submit their views regarding the proposed Disability Leave Guidance for consideration of the Personnel Committee.

Reasons

1. The Trade Union side and the Management side agreed that the amendments would go some way to making the proposed guidance more flexible.
2. & 3. The Trade Union side wished to review the amended Guidance in writing prior to deciding whether to submit their views to the next Personnel Committee meeting.
4. **ANY OTHER BUSINESS**
None.
5. **FUTURE MEETINGS**

It was noted that the next meeting of the Committee (if required) would start at 4 pm on Wednesday, 20th December 2017 in Committee Room 2, Council Offices, Southfields, Loughborough.