

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

Employment Conditions Committee: 16 January 2006

Report of the Assistant Chief Executive

Review of Sickness Absence Policy and Procedure

Background

1. The Employment Conditions Committee on the 27th July 2005 considered a report From the Assistant Chief Executive on the findings of the Policy Review and Performance Scrutiny Committee Task and Finish Group on “Sickness Absence Levels in Cardiff Council”
2. The recommendations in this report addresses the requirement to review the Council’s Sickness Absence Policy And Procedure and to submit the revised policy to the Employment Conditions Committee in January 2006 for consideration.

Issues

3. The Scrutiny report suggested a number of key amendments to the Sickness Absence Policy to improve the management of sickness throughout the Council. These recommendations have been taken into account in the revised Policy. Additionally, arrange of best practice arrangements from other organisations have been reviewed and elements that fit Cardiff have been incorporated into the revised policy. The revised draft has been the subject of wide ranging internal consultation and it has been possible to incorporate many of the suggestions made.

Proposals

4. A copy of the revised Policy is attached as Appendix A. For ease of reference, the proposed changes have been highlighted, and alongside the significant changes may be found a number which categorises the main reason for the change in accordance with the following list:-
 1. Greater emphasis on highlighting work problems causing absence, / or health affecting ability to do work and possible DDA "reasonable adjustments", or redeployment.
 2. Ensuring Sickness Monitoring Policy is being fully implemented by all.
 3. Placing greater emphasis on the Return to Work interview as an important absence control measure.
 4. Earlier and more frequent referral to Occupational Health (New in house team in most cases)
 5. Reward for good attendance.

6. Tighter procedures / better control.
7. Promoting earlier return to work / Helping staff to improve their sickness records.
8. Promoting better health.
9. Early release of pension (in case of non permanent ill health).
10. For information / additional advice not formerly in Policy.

Investment for Reform/Benefit to service user

5. Improvements made in the level of sickness absence across the Council would release resources which could be of immediate benefit to service users

Council Policies Supported

6. This report relates directly to the Sickness Absence Policy.

Advice

7. This report has been prepared in consultation with relevant Corporate Managers and reflects their advice. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the following advice.

Legal Implications

8. Most employment issues are Council functions and the Council has delegated responsibility for the functions to the Employment Conditions Committee. The terms of reference include "To consider and determine policy and issues arising from the organisation, terms and conditions of the Council's employees, and to agree the introduction of new or amended employment procedures, following consultation with trade unions or employees as appropriate." If the Sickness Policy is approved it will become the policy of the Council.

Financial Implications

9. Previous reports have highlighted the significant cost of sickness absence to the Council. The revisions to the Council's Sickness Absence Policy and Procedure are intended to strengthen the Council's position and make improvements to the overall level of sickness absence across the authority which should in turn enable some release of resources. Any costs associated with the policy will be met by Service Areas from within existing resources

Human Resource Implications

10. Officers from Human Resources were closely involved in the deliberation of the Task and Finish Group investigation. The recommendations of the group if fully implemented will strengthen the Council's position on this important issue but there will be resource implications for Human Resources and Service Areas that will need to be addressed.

Trade Union Comments

11. A number of meetings have been held with Trade Union representatives to consider in detail their comments with regard to the revised policy. Many of their suggestions have been incorporated and the policy amended accordingly. Other suggestions will be included in the Manager and Employee Guidelines that will be produced shortly. The Trade Unions commented that whilst the principles of the Return to Work interview and home visits were understandable, in reality they were impractical and time consuming to undertake. Further, they considered that home visits need to be more carefully managed as there is a potential for some managers to use them as opportunities to bully employees who were at their most vulnerable. They welcomed the enhanced role of Human Resources within the revised policy and were particularly keen to see the new in-house Occupational Health Team up and running.
12. They reiterated the importance of absence being managed by Service Area managers. A number of comments were related to the implementation of the policy rather than the policy itself. However it was anticipated that the training/briefing arrangements to be put in place would go some way to address this concern. It was confirmed that joint training on the new policy would be organised, involving managers and Trade Unions. UNISON shares the concern of the Council about sickness rates and the wish to reduce the incidence of sickness to a more acceptable level. They consider however that the clear implication of the Long Term Absence procedure is to punish genuinely ill employees and that dismissals and termination of contract will be the order of the day for many following the 2nd referral to Occupational Health.
13. Whilst the Trade Unions supported the proposal to establish an Absence Management Group, a wide range of views were expressed about rewarding attendance. Ultimately whilst the principle was generally supported, they felt that further work was needed on the mechanism to be used.
14. In addition, however, there are a number of Trade Union suggestions which it is felt are not appropriate for inclusion in the policy and these are listed below.
 - **Paragraph 13.** The Council has the right to refer to any employee for a medical report at any stage in the process. The Trade Unions want this provision removed as they feel that it could be abused by managers
 - **Paragraph 44.** Trade Unions wanted the discounting of all absences caused by industrial injury and/or disability to be mandatory.
 - **Paragraph 69.** Trade Union wanted the words “However, the Council cannot keep jobs open indefinitely and ...” removed from the policy. Their opinion is that jobs should be held open indefinitely if employees are not certified as permanently unfit.
 - **Paragraph 75.** The Trade Unions felt that this provision was discriminatory against manual workers, because generally it would not be possible for them to work from home. The GMB representative wanted the provision removed.
 - **Section Fully Fit to Resume Duties.** The GMB representative wanted an additional paragraph included, stating that once an employee had a certificate from his /her G.P. that they are fit to return to work, then they must be allowed to return to work immediately.
15. The following comments were made by the NUT representative with regard to implementation of the policy in schools. It should be noted that it is recognised that this policy will need to be adapted for implementation in schools and this will be undertaken once the revised policy is approved:-

- Staff in schools who are mixing with large numbers of children are likely to contract illnesses more frequently, and therefore some provision for a possible higher absence level for schools staff should be made.
 - It would be very difficult in schools to conduct Return to Work interviews, as cover would be required to take teachers from classrooms. This could only be done at a cost. There would be a similar problem with regard to home visits.
 - Most of the provisions for flexible working, in terms of a managed approach back to work after absence which may be open to non-teaching staff, would not be available to teachers.
16. The NASUWT stated it “has not and does not accept the Sickness and Absence Policy of The Schools Service of Cardiff LEA”.

RECOMMENDATIONS

17. It is recommended that: -
1. The revised Sickness Absence Policy and Procedure attached as Appendix A be approved.
 2. The new policy be implemented from April 2006 in order that it may be coordinated with other issues such as training/briefing of managers ,SAP sickness arrangements and the establishment of the in-house Occupational Health Service.
 3. The implementation training for managers , to enable them to fully understanding the policy and their role within it as part of a broader programme of managing performance, commence as soon as is practicable.
 4. This report should be submitted to the Policy Review and Performance Scrutiny Committee for information.
 5. An update report be submitted to a future meeting of this Committee, advising of progress and developments in managing absence.
 6. In accordance with Scrutiny recommendations, a timely range of arrangements be put in place so that the new policy is widely communicated to and understood by employees .

JO FARRAR ASSISTANT CHIEF EXECUTIVE

The following appendices are attached:-

Appendix A -Revised Sickness Absence Policy and Procedure

Appendix A

CARDIFF COUNCIL

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Section: 1 Policy Purpose, Scope and Key Principles

PURPOSE

1. The absence of employees through sickness is difficult for any organisation to accommodate because it is unplanned and disruptive and therefore high sickness absence levels make it difficult to deliver quality services reliably. Apart from the disruption that is caused, sickness absence significantly increase costs, particularly in areas where replacement cover has to be provided. The establishment of sickness absence levels as a corporate health indicator to be audited and published conveys the importance of managing attendance effectively
2. This Policy and the accompanying procedures are to help managers deal fairly, consistently and effectively with sickness absence and irregular attendance at work across the Council. It is also intended that this Policy assist in managing employees with excessive amounts of sickness absence. In addition to management responsibilities, there are clear responsibilities for all employees in the implementation of this Policy.
3. The Policy is also intended to support employees by identifying at an early stage anything at work that could be contributing to their absence and taking appropriate measures to deal with such problems. It also encourages managers to take an interest in their employees health and well being and to where necessary take appropriate measures to facilitate their return to work.
4. The reduction of sickness absence levels will improve service delivery, increase employee morale, ensure the organisation is more competitive and increase job security. Sickness absence is an inevitable and complex organisational issue and should not be viewed in isolation but within the broad context of the Council's obligation to ensure health, safety and well being of all employees and the organisational factors, which may affect sickness absence levels.
5. By implementing this Policy firmly but fairly, managers will impress upon their staff that they are concerned about their health and well being, and that there is support available where necessary. They will also make staff aware that sickness absence is taken seriously and does not go unnoticed.

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SCOPE

6. This Policy and Procedure will apply to all employees of the Council, irrespective of status and/or grade, except those employed by Schools. There is a similar Policy for schools that has been adopted by most governing bodies.

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KEY PRINCIPLES

7. It is the responsibility of managers to minimise absence through sickness, not only to ensure and maintain best quality service delivery but also to avoid disproportionate stress upon remaining employees. The management of sickness absence will be a key element in the Personal Performance and Development Scheme process for managers.
8. In order to encourage good attendance Chief Officers should :-
 - provide good working conditions
 - ensure health and safety standards are maintained
 - carry out appropriate risk assessments including stress
 - ensure all employees are aware of the Council's policies on absence, harassment, equality, stress, special leave etc.
 - managers are given appropriate training and support to operate policies effectively
 - jobs are designed so that they give motivation and provide job satisfaction
 - teamwork is encouraged
9. This Policy is to deal with genuine sickness absence and the effects it has on employees and the organisation. Any form of abuse of this Policy or procedure will be dealt with under the Council's Disciplinary procedure.
10. A Council wide sickness absence monitoring system has been established to operate in parallel with this Policy to make comparisons of absence levels across service areas and between employment categories. These statistics will be reviewed by the Absence Management Group. (see Section 8)
11. Any cautions issued under this scheme will not be taken into account when a disciplinary penalty is being determined.
12. Although each sickness absence case must be judged on its merits, and the individual circumstances of each case must be considered with understanding and sympathy. The importance of the operational affect of the absence must also be taken into account.
13. At all stages of the procedure, a proper investigation should be conducted into the circumstances of absence and appropriate information gathered. Attendance records must be maintained.
14. Work located factors, including the job itself, should be monitored by managers as part of this process to assess if they are adversely affecting attendance. Employees should raise concerns with their manager or Human Resources if they believe their job, or any circumstances connected with their employment is making them ill or contributing to illness. Employees should also advise their managers if they have any condition which is substantially affecting their ability to do their work.
15. Employees must be advised by their managers of their right to be represented at all formal stages of this procedure by a Trade Union representative or a work colleague and that they have an appeal right in relation to any formal action taken as a result of

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this procedure. Sufficient notice must be given to employees prior to any formal interview being convened. (The routine return to work interview is normally excluded from these provisions)

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16. Appropriate training will be provided to managers to achieve consistent and sympathetic treatment of all employees under this procedure. Equally all employees should be made aware of the Policy and their responsibilities within it.
17. This Policy will link in with other associated Council policies in relation to disability alcohol and drug misuse, stress management, harassment. etc.
18. Employees may be referred for a medical examination at any stage during this process, regardless of the duration of sickness absence. Such referrals must be made through consultation with Human Resources.
19. Communication with employees throughout any period of absence should be maintained by line managers.
20. Return to work interviews must be carried out by the relevant manager after every incidence of sickness, preferably on the day of return but no later than 3 days after return to work.
21. The Council recognises that a proactive approach to health and well being will best improve the attendance and performance of employees. It therefore is committed to developing such programmes on an on-going basis.
22. Employees who have more than one job with the Council and are absent from one job may only remain working in another job, if the nature of illness does not impact on their capability to carry out the duties of their other job. Advice from Human Resources must be obtained in these cases.
23. Employees must not engage in any external work whilst on sick leave from the Council, without prior approval from their Chief Officer.
24. This Policy and Procedure will be reviewed in the light of 12 months operational experience.

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Section 2: Sickness Notification Procedures

25. Service Areas will ensure that all employees are aware of the Sickness Absence Policy, which will include the specific sickness notification requirements relating to their particular workplace. Reporting arrangements for employees who work shifts is a matter for local determination but all elements of this process will continue to apply.
26. Employees are not entitled to claim sick pay unless they have complied fully with the procedure.

First Day

27. On the first day of absence, the employee (or someone acting on their behalf) must contact the relevant manager or nominated representative as soon as possible and at least before the time stipulated by the Service Area. The manager should be advised of the start date of illness, nature of illness, likely duration, and any outstanding work commitments.

28. If the employee believes that their absence may have been caused by an accident or incident that happened at work, including alleged work related ill health, they should inform their manager of this who will arrange for an Accident At Work Form to be sent to them for completion. When the absence involves an industrial injury, the manager should ensure that HR are made aware as soon as possible.

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29. If an employee is taken ill at work and continues to be absent the next day, the line manager must be notified on that day by the time stipulated.

Fourth Day

30. If the employee is unable to return to work on the 4th calendar day, the requirements specified for the 1st day must be repeated.

More than 7 Days Absence

31. A medical certificate will be required and should be forwarded to the manager or nominated representative. For continuing absences thereafter, medical certificates will be required. Where the period of absence exceeds 14 calendar days, or where more than one doctors certificate is necessary the employee must submit to their manager on return to work, a medical certificate or statement of fitness to resume work from their doctor.

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Sickness During Annual Leave

32. Employees who are taken ill on annual leave must follow the normal sickness notification procedure as outlined above and submit a medical certificate to cover the absence if they wish to reclaim the leave.

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Sickness Related to Third Party Accidents

33. Where an employee is absent as a result of an accident where damages may be receivable from a third party, the Council will pay sickness payments in accordance with the terms of this scheme, subject to the employee undertaking to refund to the authority the total amount paid, or the proportion represented in the damages received, should the claim be successful. In such circumstances the employee should take all reasonable steps to pursue the claim, which must include the sick pay received from the Council. Any period of absence in such a case where a refund of the moneys advanced is made in full shall not be recorded for the purpose of sickness entitlement. If the refund is paid in part only, then the Council will decide to what extent the absence should be recorded against the sick pay scheme. Advice on this issue is available from Human Resources.

Resumption of Duties

34. In order to assist in the organisation of work, employees should give the maximum possible notice to their manager of their return to work. Where specific rota schedules may be affected, such notice may be introduced as a specific requirement.
35. It is the responsibility of the manager to notify Payroll in Financial Services of any sickness by completing and returning to Payroll, room 206 County Hall, form 4.C.073, including nil returns where appropriate.

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Section 3: Return To Work Interviews

36. The Return to Work interview is regarded as a key measure in supporting employees who have been unwell, controlling sickness absence, and identifying any underlying work related issues. It is therefore essential that managers undertake this task as soon as possible after employees return to work.
37. Irrespective of the length of absence, all employees, on their return to work must immediately complete a "Claim for Sickness Allowance Form" (4.C.074) and report to their manager.
38. Ideally the Return to Work interview should be on the day of return. However, if that is not possible, it should be held no later than 3 days following the return to work.
39. The Claim for Sickness Allowance Form (4.C.074), including the return to work discussion notes on the back of the form, should be completed at the Return to Work interview. The purpose of the interview is for the manager to discuss and raise any concerns about the individual's health, wellbeing, recovery and overall attendance as well as highlight any effect the absence has had upon the work of the section/unit. During the interview the manager should discuss or consider, as appropriate to the circumstances, the issues listed below. This list is neither prescriptive or exhaustive:
- Enquire as to the employee's wellbeing and ascertain whether they have made a full recovery
 - Bring the employee up to date on work related issues / developments during the absence
 - Enquire as to whether there are any work related problems which may be connected to the absence / and or whether the employee requires any support.
 - Enquire as to whether the employee's health is affecting their ability to carry out the job.
 - Consider whether the employee's illness could be regarded as a disability under the Disability Discrimination Act 1995
 - Consider referral to, or involvement of, the in house Occupational Health Service
 - Discuss whether there are any adjustments required to enable the employee to carry out the duties of the post
 - Remind the employee of the need for good attendance in order to maintain service provision, and the financial effect that absence has on the service area.
 - Advise of the possibility of the employee hitting an absence trigger.
 - Advise the employee of the help available through the in Employee Counselling Scheme.
 - Advise the employee of the Council's Stress Management and any other appropriate policies.

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Section 4: Abuse of the Sickness Policy and Scheme

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40. Sick pay may be suspended if an employee abuses the sickness scheme/Policy, fails to provide relevant certification, fails to attend medical appointments with the Occupational Health Adviser or is absent on account of sickness due or attributable to:
- deliberate conduct prejudicial to recovery
 - misconduct or neglect
 - active participation in professional sport
41. Where sick pay is suspended, employees shall have a right of appeal, which should be raised through the Grievance Procedure.
42. Abuse of the sickness scheme or Policy may lead to disciplinary action.

Section 5 : Frequent/Persistent Sickness Absence Procedure

43. Frequent/persistent absences are normally sporadic and are often attributable to unconnected, minor ailments. Absences of one day or less caused by appointments for doctors, dentists, hospital or physiotherapist etc, which are validated by an appointment card are not included, as these are covered by the Special Leave Scheme. However, wherever possible employees should arrange such appointments outside working hours. Absences of less than a full day will count as a sickness absence for the purpose of this Policy. Where it is considered helpful, the Occupational Health Service may be utilised to advise employees on how they may be able to improve their health and attendance record.

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44. Absences related to disability or industrial injury should initially be counted for the purposes of the “triggers” for the stages below. Whether they should subsequently be counted will be determined at the sickness absence interviews and on receipt of medical advice.(see Appendix 1 with regard to sickness absence related to disability)

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45. Pregnancy related illnesses will not normally be counted towards the trigger process.

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46. In order to calculate whether absences have automatically “triggered” a stage in this procedure, the last date of sickness from the reference absence to the first day of the latest absence should be taken as the dates from which to calculate the time period.

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47. Managers must conduct any sickness absence stage interviews within 10 working days of receiving notification from Human Resources that a trigger point has been met. If these interviews are not held promptly then there is the possibility of further absences occurring which would have triggered later stages of the Policy. It is not appropriate to miss out stages in the procedure and move to a further level. Employees must have been interviewed in accordance with this procedure, before moving on to a next stage of the Policy.

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48. There is flexibility to refer employees for medical opinion at any stage of this process.

STAGE 1 – INITIAL STAGE COUNSELLING

49. Managers are required to take action where:-

- (a) there are **3** separate absences within a **6** month period
- (b) **there emerges an apparent pattern** of recurring absence such as Monday morning/ Friday afternoon absences.

50. It must be recognised that at this stage, the counselling aspect of the procedure is paramount and employees should be informed of their rights to representation. Action should take the form of sickness absence counselling. The absences should be brought to the attention of the employee concerned and discussed to determine if there is any underlying reason for the absence. If it is discovered that the individual

has some problem relating to his/her work situation, which has resulted in sickness absence, then this must be discussed with a view to rectifying the situation.

51. The manager has a duty at this point to consider carefully whether the individual who has a record of sickness absence should be allowed to work overtime.
52. It is not always appropriate for the manager to offer advice/or counselling related to personal, financial or domestic problems. The counselling referred to here is informal discussion and advice and not in-depth counselling which should be referred to a qualified counsellor e.g. via the Employee Counselling Service.

STAGE 2 - 2ND STAGE COUNSELLING

53. As in Stage 1, the main purpose of this stage is counselling. Managers are required to take action where:

(a) after the original stage 1 interview, there are **5 absences within 10 months. The 10 month period starts from the last day of sickness of the first illness of stage 1.**

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Or

(b) It is considered that the employee's **pattern of absence** is likely to lead to or is already causing difficulties.

Or

(c) **where total quantity of absence gives cause for concern.** (Managers must specify why the absences are causing concern)

54. The employee should be interviewed by the manager to:

(i) consider and discuss the level and reasons for absence;

(ii) explore all practical steps which may alleviate the situation;

(iii) convey that the sickness level is giving cause for concern;

(iv) point out the possible consequences of this continued level of absence.

55. Agreement should be reached with the individual on the steps to be taken, the nature/timescale for improvement and subsequent review period. Thereafter the manager should monitor the resultant effects. At this stage, the manager should emphasise to the employee that unless the agreed improvement is established and maintained, then it will be necessary for the next stage of the procedure to be invoked.

STAGE 3 – FORMAL WRITTEN CAUTION STAGE

56. Managers are required to take action where:-

(a) there have been **7** absences within a **12** month period;

Or

(b) **an absence pattern emerges** which causes concern;

Or

(c) **where the total quantity of absence gives cause for concern**, (Managers must specify why the absences are causing concern)

57. A formal interview should be convened by the manager and will include:-

- (i) a review of the steps taken to date and notes of previous meetings;
- (ii) an analysis of the individual's sickness absence record;
- (iii) consideration of the prospects for improvement in attendance. At this stage, practical steps which may be taken to improve the attendance level will be considered, including if necessary occupational health referral and job modification, etc.

58. Unless there are reasons why it would be inappropriate, the employee concerned should be issued with a formal written caution, advising of possible consequences. The letter sent to the individual confirming the action to be taken should make absolutely clear that failure to improve the unsatisfactory absence record will lead to a further caution. **STANDARD LETTER**

59. To allow an assessment of sustained improvement over a more realistic timescale, this formal written caution shall remain valid for a period of **12 months**. There is the right of appeal. **Human Resources will normally be consulted and involved from stage 3 onwards.**

STAGE 4 – FINAL WRITTEN CAUTION STAGE

60. Managers are required to take action if, following the steps described previously, the employee has:

(a) **9 absences** within a **14 month** period.

Or

(b) **fails to achieve the required improvement** during the period of the caution

61. The employee will be requested to attend a formal hearing when their future employment position will be reviewed. By the conclusion of this interview, the following options must have been considered:

- (i) a specific programme for substantial and sustained improvement which may include extending the time period of the caution;
- (ii) alternative employment;
- (iii) retirement on grounds of ill health.

62. Where these options are not appropriate, the employee should be issued with a final written caution valid for **18 months**. The employee concerned must be left in no doubt that they have been given a final opportunity to substantially improve and

sustain their attendance record, or there will be no alternative but dismissal in accordance with Council's procedures. There is the right of appeal.

63. Following the issue of a final written caution, there will be a Case Conference involving the relevant Manager(s), Human Resources and the Trade Union representative, where appropriate, to ensure that all options have been considered and to see if any further action can be taken.
64. If it has not already taken place, a medical opinion must be sought from the Council's Occupational Health Adviser in respect of whether there are any underlying medical conditions that should be taken into consideration.

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STAGE 5 – TERMINATION OF EMPLOYMENT

65. Managers are required to take action if all the previous stages have been exhausted, and the employee:-
 - (a) has **12** absences within an **18** month period;Or
 - (b) **fails to achieve the required improvements** during the period of the caution.
66. A further formal interview must be convened, to be conducted by a designated officer who will review all action taken to date and take into consideration all circumstances brought to their attention by the employee and their representative(s). Unless there are particular, extenuating circumstances, the individual will be given notice of dismissal. There is the right of appeal which will follow the principles of the Council's Disciplinary Appeals Policy and Procedure.
If absences are related to disability, managers should ensure no reasonable adjustment could have prevented dismissal (including discounting absence), **that redeployment has been properly considered(if appropriate via the Council's redeployment procedure)** and that dismissal is fully justified. (See Appendix 1).

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Section 6 : Long Term Sickness Absence Procedure

67. Long-term sickness absence can be defined as continuous sickness of four weeks or more and can usually be traced to a particular medical condition. Usually the management response to long term absence can be determined on the basis of much firmer medical evidence and a pragmatic approach adopted.
68. It is possible that long term absence, by its nature, will stem from a disability within the meaning of the Disability Discrimination Act. If this is the case specific advice should be sought from Human Resources. (see Appendix 1).
69. There is no specific timescale, since again the principle is that each case, particularly of long term absence, must be assessed on its own merits. However, the Council cannot keep jobs open indefinitely and the underlying principle in dealing with long term absence must be to balance the Council's needs against the circumstances of the employee concerned.
70. Employees may be referred for a medical examination at any stage in this procedure.
71. As no 2 long term absence cases are the same, before taking any action advice, guidance should be sought from Human Resources.
72. Managers may not be able to accommodate indefinitely the consequence of an employee's long term absence and an assessment of this will need to take place following consultation with the individual concerned and consideration of the organisation's needs e.g. impact on the continuing sickness absence on colleagues' workload and flexibility of the unit.
73. When an employee has been absent for a period of 9 months, a case conference between the manager, Human Resources, and Trade Union representative where appropriate, must be undertaken to review the management so far of the case and determine future action.
74. Where an employee is on long term certified sick leave and wishes to travel on holidays he/she must inform their manager in writing that they intend to do. They should also provide written confirmation from their GP that they are fit to travel and the holiday will not be detrimental to their recovery.
75. Where employees are on long term sickness, and their condition and their work is such that they would be able to effectively undertake their duties from home, this may be arranged. The arrangement would be subject to the agreement of all parties and a risk assessment . Where employees carry out work from home under this provision, they will not be regarded as on sick leave with regard to sickness entitlement and pay
76. Where an employee is waiting to be seen by a consultant in relation to a medical problem and the appointment is unlikely to be within a reasonable timescale, the Council may make arrangements for a consultant to examine the employee concerned and provide a report to the Occupational Health Adviser and the employee's GP. In such instances, the fee payable will be met by the Council.

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CONTACTING EMPLOYEES ON SICK LEAVE

77. Appropriate contact with employees on long term sickness absence is particularly important. Effective dialogue should continue throughout the absence to enable managers to have a clear understanding of the individual's present health and future employment prospects, at all stages of the absence. Throughout this process, employees should always be notified if their employment is at risk.

HOME VISITS

78. At least one home visit should have taken place by the employee's 4th week of sickness absence. Thereafter, visits should be maintained on a regular basis (every 6 weeks). It should be stressed that this is not in anyway checking up on the individual. Additional contact can be maintained by telephone and should be encouraged.

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79. The home visit should be pre-arranged with the individual concerned. The employee may wish to be represented during such a visit. Arrangements should, as far as possible, be mutually agreed. Normally, visits should be undertaken by the manager and accompanied, where considered appropriate, by another employee. A Trade Union representative may also accompany the employee if required. In addition if it is felt that a visit by an Occupational Health Adviser may be advantageous this could also be arranged.

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80. If employees want a visit but not to their home, alternative arrangements should be made to use another venue.

81. If, due to special circumstances, a meeting between the employee and the manager is not feasible, then regular contact should be maintained through other means e.g. telephone, letter, email, contact with relatives etc.

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82. The aim of maintaining contact/undertaking home visits are to:-

- keep in touch with people who are away
- establish the length of time the person is expected to be absent and if and when a medical examination would be appropriate
- ensure that the individual is kept acquainted with developments at work and that they do not feel isolated
- enable managers to establish if the cause of absence is job-related
- ensure that the employee is aware of the position of their future employment.

83. Managers conducting visits should do so with sensitivity and take into account the possible stressful nature of the interview. However contact with the employee is maintained, a record of the outcomes, information sought/provided and other associated actions should be made on form 4.C.080 and retained on the personal file.

84. At the first home visit, the employee should be advised that the next stage of the Sickness Absence Policy will be a medical referral to the Occupational Health Adviser. The employee will duly be asked to sign a Medical Consent Form. (4.HR.143)

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REFERRAL FOR MEDICAL EXAMINATION

(Please read in conjunction with Appendix 2 : Action in Particular Cases)

85. All employees absent on long term sick leave should have been referred to the Council's Occupational Health Service by the time they have had 8 weeks continuous absence or a total of 60 days absence in any period of 12 months. A medical referral may be sought:-

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- When advice is needed as to the likely duration of the sickness absence and an indication of when a return to work is anticipated;
- Whether an earlier return to work could be achieved on a part time or phased basis or to a different job, etc;
- When the length of absence appears to be longer than would be expected in relation to the illness or injury
- When there appears to be serious doubt as to whether the employee will recover sufficiently to resume their duties;
- Whether there could be an underlying reason for the level of absence.

86. A second medical referral should have at least taken place by the 6th month of any sickness absence. This referral should be to ascertain whether a return to work in the near future is likely.

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87. The Council will need to assess future employment capability taking into account at the minimum:

- the medical advice received
- the likelihood of the current level of absence occurring or some other illness arising
- the length of the various absences and periods of good health in between
- the impact on those who work with the employee and the overall effect of the organisation
- the likelihood of suitable alternative employment being found or accepted.

ACTION ON MEDICAL REPORTS

88. The Council's Occupational Health Adviser will give a medical opinion as to the individual's fitness for work. The manager should at the earliest opportunity inform the employee of the medical recommendations. There will usually be one of 5 medical opinions indicated in relation to the employee referred:

Unfit to return at present, but likely to be able to return within reasonable timescale.

89. Employee will remain on sick leave but the case will be continue to be closely monitored to ensure that there is the possibility of a return to work within a reasonable timescale.

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Fully fit to Resume Duties

90. If fully fit to resume duties, the employee should be interviewed, informed of the full facts and be requested to return to work immediately.
91. However if it is considered justified for therapeutic reasons, the employee may return on a part time basis for up to a month. The actual working arrangements should be agreed with the manager and employee with advice from Human Resources.
92. The situation will be reviewed after a months part time employment and if the manager after consultation with the in house Occupational Health Adviser considers it necessary then the period may be extended by a further month. 2 months will be the maximum allowable.
93. Where a full time employee is undergoing a period of rehabilitation on a part time basis, he/she shall receive normal full pay during the period in question.

Qualifies for Ill Health Retirement

94. If declared permanently unfit to resume duties, in most cases a request for ill health retirement will be initiated by the individual concerned during the counselling process. Where appropriate, the employee will be advised of their pension benefits. Once a medical opinion is received from an Occupational Health Physician, confirming an employee is permanently unfit, Chief Officers have delegated powers to retire employees on the grounds of permanent ill-health.
95. Where an ill health retirement has not been requested and such an opinion is received, the employee should be interviewed, and informed of the exact position. If the employee decides that s/he wishes to retire then the request should be confirmed in writing, and the procedure outlined above should be followed. However, if the employee wishes to be considered for alternative employment then the Council's Redeployment Procedure should be utilised to look for a suitable job. Where necessary there should be a referral to Occupational Health to ascertain what work would be suitable.
96. If a search for alternative employment is unsuccessful and the employee still does not wish to retire but it is decided that dismissal is the only option then the correct procedure must be followed. i.e see paragraphs 112 – 116 below. Individuals found permanently unfit on medical grounds should normally be given a payment in lieu of notice.

Unfit To Return To Full Duties Of The Current Post

97. Where employees are deemed unfit to return to the full duties of their current post on a long term or permanent basis, consideration must be given to the following options. Whilst the options are being explored the position with the sickness absence should be kept under constant review with regular counselling continuing. At appropriate intervals, further medical referrals should be made to re-consider the options.

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(i) Rehabilitation Within the Current Job

98. Rehabilitation within the current job may take the following form:

- (i) A phased return to work (see paragraphs 75 /76)
- (ii) Part time working either shorter hours or limited days per week on a long term basis.
- (iii) Changes to work practises

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99. Any rehabilitation to the current job must be done in conjunction with medical advice received and Human Resources.

100. It should be clearly specified whether any rehabilitation is on a temporary or permanent basis. Where it is on a temporary basis, the time constraints should be clearly communicated to all parties.

101. Any rehabilitation agreement should be reviewed on a regular basis until such time as the employee and manager do not feel it is necessary.

102. There may be a need to seek external specialist help e.g. Disability Advisers, to help to provide advice and guidance.

(ii) Redeployment

102. Recommendations for redeployment must be based on medical advice from the Occupational Health Adviser

103. If redeployment for an employee needs to be sought the employee must complete the relevant form and apply for inclusion on the redeployment register as per the Redeployment Policy. Where the employee is suffering from an illness that falls under the provisions of the DDA , consideration should also be given to redeployment to higher graded jobs.

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(iii) Mutual Termination of Contract and Early Release of Pension Benefits

104 Mutual termination of contract can occur where both the employee and the manager agree that employment should cease. Where the employee is eligible under the pension regulations consideration will be given an early payment of pension benefits. This will involve a reduction in the benefits payable because of the early release.

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(iv) Dismissal On The Grounds Of Long Term, Not Permanent Ill Health

105. Prior to a dismissal, the Council should seek to redeploy and suitable alternative employment be offered where available. This will be important where the cause of the individual's absence's is disability related. Under the Disability Discrimination Act this could mean either making significant alterations to a disabled person's original job to prevent "substantial disadvantage" or redeployment to a more suitable position.

106. Dismissal on the grounds of long term but not permanent ill health is distressing for both employer and employee. The Council though has a duty to efficiently maintain its services and cannot therefore sustain indefinite long term absences.

107. To contemplate dismissal, the manager must have provided the employee with previous specific cautions that their employment is at risk. The first such caution, where appropriate, should take place after the Occupational Health Service referral and report.

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108. Given that the Council cannot keep jobs open indefinitely and if none of the other options are appropriate, the line manager should now initiate proceedings to consider dismissal on the grounds of long term ill health. Before proceeding, given the sensitivity of the situation a case conference must be convened involving the Manager and Human Resources.

109. The manager must then instruct the employee in writing to attend a meeting to discuss the progress of the sickness absence and to ensure that all other options have been considered. The employee must be fully advised of the reason for the meeting, warned that their employment is at risk and be offered representation by a Trade Union representative or work colleague.

110. The manager must explain at this meeting that the Council intends to serve notice of termination of contract on the grounds of long term ill health. The employee should be given the opportunity to discuss the options considered by the Council and whether there is any likelihood of a return to work in the very near future. If the manager is content that all the possible options have been considered by management and no return to work is imminent then the employee should be informed that notice of termination of contract on long term ill health grounds is being given. The employee should be informed of his/her appeal rights and the fact that the decision will be confirmed in writing.

111. If a meeting is arranged and an employee is not able to attend, the manager should attempt to re-arrange the meeting within the next 5 working days, at a mutually convenient time.

112. If a second meeting has been arranged with an employee but, for example due to the health of the employee, the meeting is unable to take place, then the employee will be written to issuing notice of termination of contract on the grounds of ill health.

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113. Following dismissal on the grounds of long term ill health

- (i) If the individual subsequently regains fitness to work, the Council could consider giving prior consideration to re-employment as close to their earlier grade and nature of work as possible;
- (ii) If the individual subsequently is found to be permanently unfit without regaining fitness to work, then under the provision of the Pension Regulations they will become entitled to a pension based on ill health retirement.(Early payment of deferred pension benefits).

- 114. There is the right of appeal against termination of contract on the grounds of ill health and this will follow the principles of the Council's Disciplinary Appeals Policy and Procedure.

Section 7 : Medical Examinations Procedure / In House Occupational Health Service

Seeking a Medical Report

115 The Council has the right to require a member of staff who gives cause for concern as a consequence of illness to undergo a medical examination at any stage in this process. In order to facilitate this, an in house Occupational Health Service has been established consisting of two Occupational Health Advisers. This service will be part of the Health and Safety Unit in Human Resources These advisers have the facility to refer to an external occupational health physician where necessary. The Occupational Health Service will endeavour to see an employee within 5 working days of referral and where possible submit a medical report within five days of examination. Some examples where the Occupational Health Service will provide advice are as follows

- The likely duration of sickness absence
- Where absence seems excessive in relation to the nature of the illness/ injury
- Where there is concern about recovery
- Whether there is a underlying reason for absence(s)
- Whether the absence is due to a work related cause
- Adaptations to work activities or the working environment to enable an employee to continue to work in their substantive post.
- Suitable alternative employment where the employee cannot return to the substantive post.
- Rehabilitation after a period of absence.
- When referral to an Occupational Health Physician is appropriate

116. As indicated above all employees who have been absent on long term sick for normally 8 weeks or more should be referred to the Occupational Health Service. However, an employee can be referred at any time during or after a period of sickness where the circumstances warrant referral. For example, for those employees who have passed stage 3, with persistent short term sickness absences, it may be appropriate to refer on the first day of absence. The Occupational Health Adviser may be available to assist with a home visit.

117. Where an individual refuses to attend an appointment, the disciplinary procedure will be invoked. At each stage, the request to undergo a medical examination should be repeated along with a request to the employee to give reasons for any refusal.

118. The employee must notify the Occupational Health Service at the earliest opportunity if they are unable to attend for an appointment e.g. they are too ill to travel etc. If an employee does not attend an appointment (without giving any notice of non-attendance), one more appointment will be arranged. Failure to attend 2 appointments (without giving notice of non-attendance) may result in a stoppage of sick pay and disciplinary action may be taken.

119. If the employee has specific or real concerns about attending a medical examination or seeing a particular Occupational Health Adviser, then the Council should take this into account and will be flexible to try and overcome these concerns.

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120. The Council will take account of the Occupational Health Adviser's or Occupational Physician's report in making any decision in relation to a member of staff.

Section 8 : ABSENCE MANAGEMENT GROUP

121. To ensure that this Sickness Absence Policy and Procedure is being fully implemented and is effective in reducing sickness absence and improving employee health, safety and well being, an Absence Management Group will be established.

122. This Group will consist of a Corporate Director, the Chief Human Resources Officer and a Senior Trade Union Representative. The Group will meet on a quarterly basis and will receive reports from the Chief Human Resources Officer on absence statistics across the Authority. These statistics may include

- % Absences down to sectional levels, broken down between long term and short term sickness, types of illness, and work and non work related.
- Absence rates to be benchmarked against all service areas, other LAs and employers
- Number of sickness interviews by level and cautions given
- Ill health terminations, ill health retirements, early release of pension retirements
- Number of return to work interviews not carried out within 3 days of the employees return to work
- Accidents
- The Group will not consider individual cases.

123. The Group will use these statistics to identify areas of high sickness rates and question Service Areas for the reasons for these high rates and what can be done to alleviate any underlying problems. It will also identify areas of low sickness rates to ensure that best practice is communicated across the Council. Where necessary the Group will call on Chief Officers to attend the meetings to report on any issues they feel require further explanation.

124. Where there are areas of high sickness absence, the Group may set targets for improvement, and direct that certain actions should be taken to improve the situation.

Section 9 : REWARDING GOOD ATTENDANCE

125. The principle of rewarding good attendance is supported but is still under consideration. It is intended that any proposals should be linked in with the broader proposed reward and recognition strategy which is being developed.

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Appendix 1 : Disability Related Absences

1. In December 1996, employment provisions of the Disability Discrimination Act came into force, imposing significant new legal requirements on the issue of disabled people in the workplace. The Disability Discrimination Act is complex and needs careful consideration in relation to definition of disability and of discrimination.
2. Under the Disability Discrimination Act, a disabled person is defined as a person with:
"A physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities".
3. A disabled person has the right to take a complaint under the Disability Discrimination Act to an Employment Tribunal. Where a complaint is upheld, the Employment Tribunal may award compensation and damages. As with race and sex discrimination there is no upper limit for compensation under the Disability Discrimination Act.
4. The Disability Discrimination Act recognises that treating all employees the "same" can penalise disabled people unfairly. Consequently to remove this disadvantage employers are obliged to make reasonable adjustments to working practices to accommodate the needs of disabled people. This duty arises where a provision, criterion or practice applied by or on behalf of the employer, or any physical features of premises occupied by the employer, places a disabled person at a substantial disadvantage compared with people who are not disabled. Where the duty arises an employer cannot justify a failure to make a reasonable adjustment. "Substantial disadvantages" are those which are not minor or trivial and must be causing a substantial disadvantage to the disabled person in question.
5. An employer has a duty to make reasonable adjustments if it knows or could reasonably be expected to know that an employee is disabled.
6. In many cases employees will advise managers that they think that they are disabled. Also Managers should use the return to work and / or Personal Performance and Development Scheme where they think there is a problem to sensitively raise the issue. The Disability Rights Commission have advised that local authorities should follow self-classification systems i.e. individuals define themselves as having a disability.
7. Where managers become aware that employees have disabilities, that are affecting their ability to do their jobs, consideration must be given as to whether reasonable adjustments could be instigated which would enable the person to work effectively. Where necessary advice may be sought from the Occupational Health Service in order to clarify whether the DDA does apply and if so, whether there are any adjustments that the Council should consider.
8. Some examples of what could be considered as "reasonable adjustments" are as follows
 - making adjustments to premises
 - allocating some of the disabled person's duties to another person
 - redeploying the person to fill an existing vacancy (should also consider higher graded posts if appropriate)

- altering the person's hours of working including flexible working
- allowing the person to be absent during working hours for rehabilitation, assessment or treatment
- acquiring or modifying equipment (advice may be obtained from the Access to Work Team)
- giving or arranging training or mentoring/coaching

9. Whether it is reasonable or not for an employer to have to make any particular adjustment will depend on a number of things, such as cost and effectiveness. However if an adjustment is reasonable to make then the employer must make it. In order to avoid discrimination, it would be prudent for managers not to make fine judgements as to whether a particular individual falls within the statutory definition of disability, but to focus instead on meeting the needs of each employee.

10. Additional advice and support in this area is available from Human Resources. Some examples of reasonable adjustments are as follows:

- A person who is disabled because he/she has dyslexia applies for a job which involves writing letters. The employer gives all applicants a test of their letter writing ability. The person can generally write letters very well, but finds it difficult to do in stressful situations and within short deadlines. He/she is given longer to take the test.
- A call centre normally employs supervisors on a full time basis. A person with sickle cell anaemia applies for a job as a supervisor. Because of pain and fatigue relating to his/her condition he/she asks to be able to do the job on a part time basis. The employers agree. The hours of work offered amount to an adjustment to a working practice.
- An employer has designated car parking spaces for senior managers,. An employee who is not a manager, but has mobility impairment and needs to park close to the office, is given a car parking space.
- An employer makes structural or other physical changes such as widening doorways, providing ramps, relocating light switches or moving furniture for wheel chair users.
- An employer reallocates minor or subsidiary duties to another employee as a disabled person has difficulty doing them because of his disability. e.g. A job involves occasionally going onto the open roof of a building but the employer transfers this work away from an employee who suffers with severe vertigo.

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Appendix 2 : Action in Particular Cases

1. There may be cases where an individual's health would make a medical examination immediately appropriate irrespective of the length of absence or even whether or not there has been any absence.
2. An employee will be entitled to be paid if suspended from work on medical grounds under various statutes.
3. Where the individual is unable to work because of adverse medical reaction to workplace conditions, consideration should be given to a search for alternative work.
4. In cases where effective consultation directly with the affected individual proves difficult, the manager should keep in touch through relatives/carers.
5. An investigation of every accident which results in time being lost from work will be undertaken by the manager and, where appropriate, the relevant Health and Safety Adviser. A written report of the incident will be made. Similarly all alleged work related ill health must be investigated by the manager with the support of a Health and Safety Adviser and Occupational Health Adviser.

Terminally Ill Employees

6. In the case of a terminally ill employee, there is a need to consider the person's situation and their continued employment in a particularly sensitive and understanding way.
7. Consultation is a key part in determining the individual's wishes and in providing them with information on the best options available.

Alcohol/Drug Misuse

8. Line Managers should ensure that such issues are dealt with in an appropriate manner, i.e. recognising that normally drug/alcohol misuse is a health problem, which could be treated, and that employees need to be treated with sympathy and understanding.
9. Human Resources will provide assistance to managers in dealing with people who have dependency problems.
10. The Council's Alcohol and Drug Misuse Policy should be followed and training will be available to assist managers in this area..
11. Addiction to or dependency on alcohol, nicotine or any other substance (apart from prescribed medication) is explicitly excluded from constituting a disability under the DDA. However, illnesses caused by addiction e.g. certain liver conditions, will be covered.

Mental Illness

12. Where it is known that an individual suffers from mental illness, it is reasonable that the manager should take account of this when reviewing sickness absence and performance.

In relation to the normal approach to sickness absence management because of the nature of certain types of mental illness, managers should be particularly wary of the effects of their action on the employee.

13. In recognition of this, it is advisable that close liaison with the Occupational Health Adviser the relevant GP and Trade Union, etc is maintained throughout. Specialist bodies such as charities and Disability Service Teams in some of the larger local Job Centres can also be of help.

Stress

14. It is a legal obligation for stress to be included in the health and safety risk assessment process. The Council has procedures and offers training in risk assessing and stress for teams and individuals

15. The Council has a Stress Management Policy that should be implemented. e.g. in respect of risk assessing and implementation of Annual Service Area Stress Action Plans. The Council is addressing the Health and Safety Executives six stress management standards as part of its' stress management programme.

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16. HIV/Progressive Illnesses

17. Managers should approach HIV and AIDS as one of a number of illnesses where mismanagement can result in stigma and discrimination for the individual concerned. Confidentiality is, therefore, of the utmost importance and will be reflected in any such Policy the Council determines. In many cases time off for counselling should be allowed and systems should be established for the safeguarding of the employee's privacy.

18. An employee diagnosed as either HIV or AIDS is under no obligation to disclose this to the Council. The normal sickness absence reporting rules will apply. HIV or AIDS will be covered by the DD Act if and when the condition leads to an impairment which has some effect on the ability to carry out normal day to day activities, even though not a substantial effect, if that impairment is likely to eventually to have a substantial adverse effect on such ability.

19. Progressive conditions are conditions which are likely to change and develop over time. Where an employee has a progressive condition, he/she will be covered by the Disability Discrimination Act from the moment the condition leads to an impairment which has some effect on ability to carry out normal day-to-day activities, even though not a substantial effect, if the impairment is likely eventually to have a substantial effect on such ability.

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