



South Wingfield

PRIMARY SCHOOL

**Attendance
management and
ill health capability**

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Appendix 1 – Causes of absence

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Appendix 3 – Guidance on the arrangement of formal meetings with staff involving union / professional association representatives

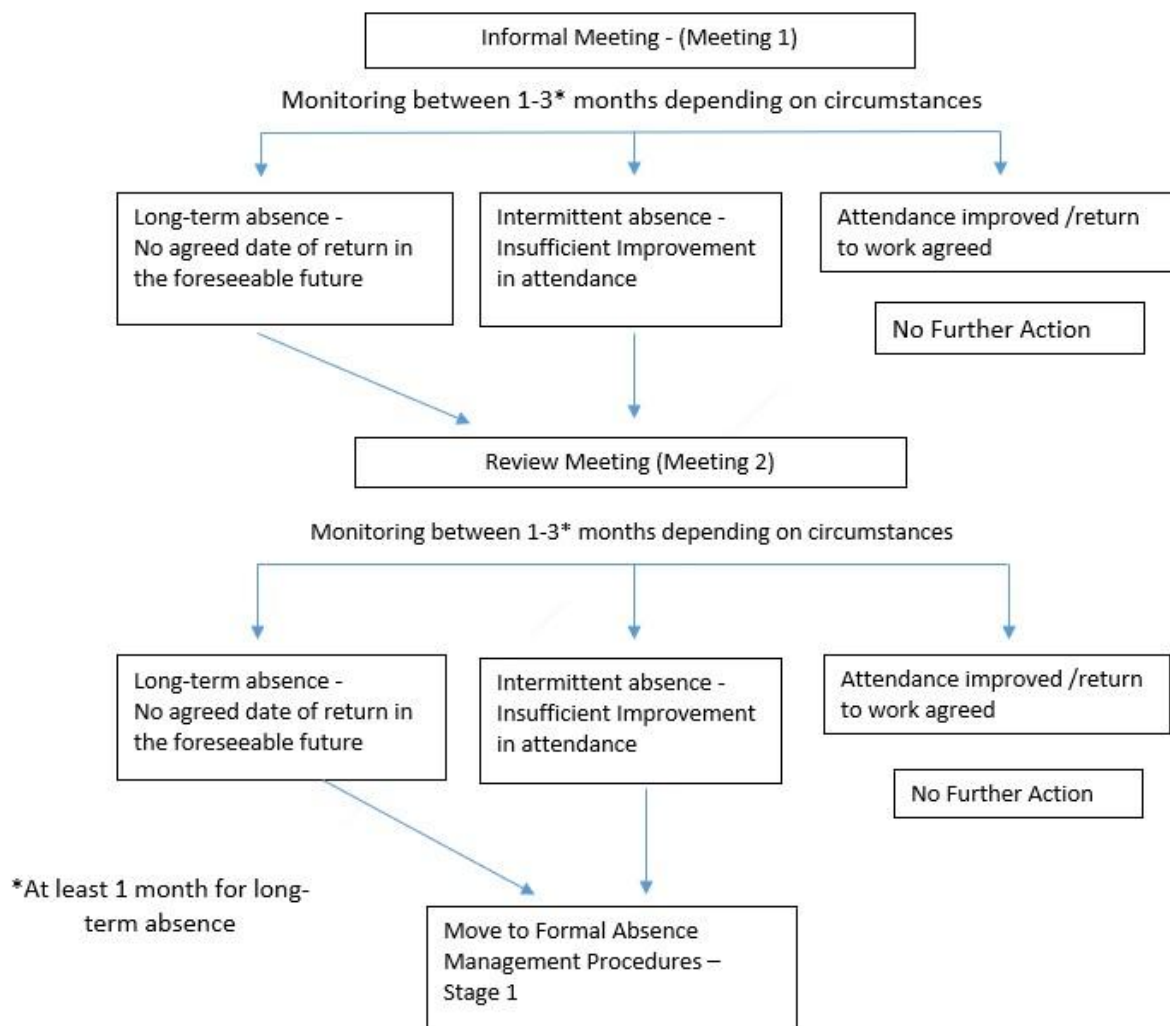
Appendix 4 – Guidelines on phased return to work

Informal action

An employee hits an absence trigger if one or more of the following apply:

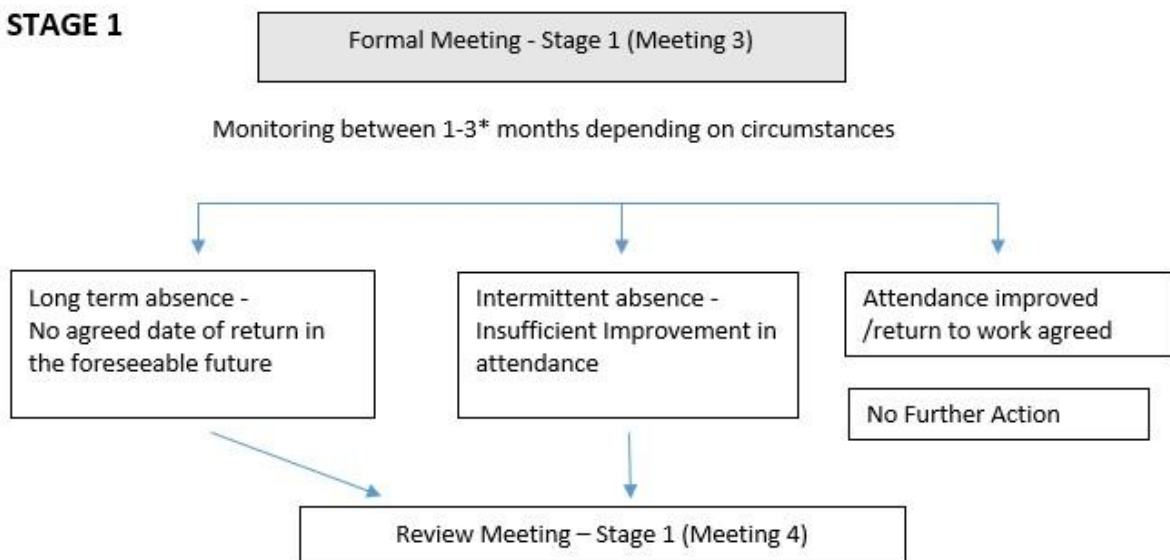
- 8 working days over in any rolling 12-month period* or
- A continuous absence of over 20 working days or
- Where there is other cause for concern on the level or pattern of absence.
- An employee is unable to carry out the full duties of their post although they are able to attend work

*To hit the trigger the employee must have at least 8 days of absence **and** at least 2 periods of absence

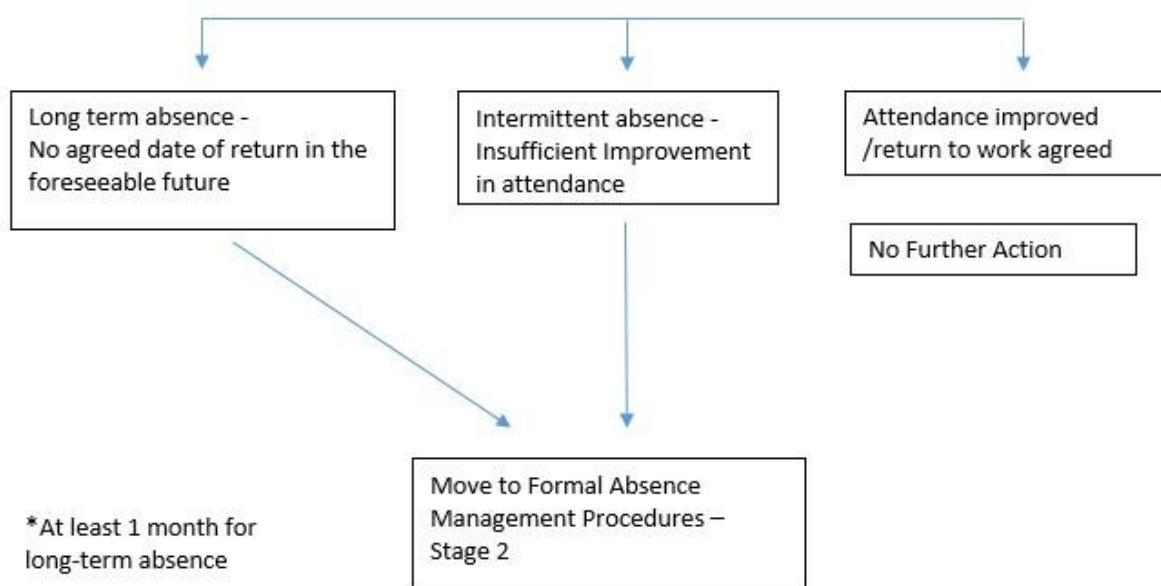


Formal Absence Management Procedures

STAGE 1



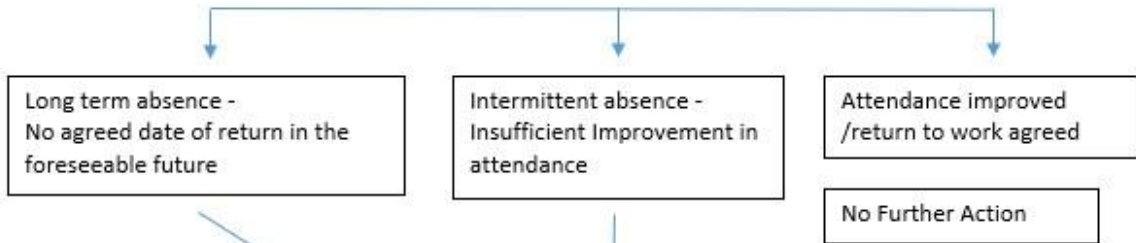
Monitoring between 1-3* months depending on circumstances



STAGE 2

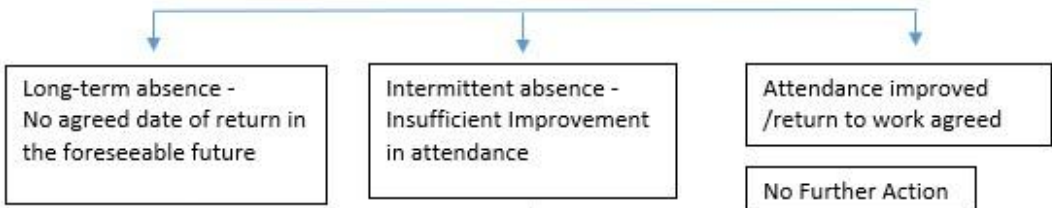
Formal Meeting - Stage 2 (Meeting 5)

Monitoring between 1-3* months depending on circumstance



*At least 1 month for long-term absence

Review Meeting – Stage 2 (Meeting 6)



Stage 3

III – Health Capability Hearing

Dismissal

Appeal

Further Review meeting at Stage 2

1. Background

The Council is fully committed to the health and welfare of all employees. It is implicit within these procedures that the Council will, do all it can to support any member of staff who suffers from ill health.

Heads of Service will encourage and support employee with health problems to seek help through occupational health, wellbeing services, or external sources. Employees will be encouraged to declare if they have a health condition or a disability, so they can access the necessary reasonable adjustments and support.

The aim of the policy is to promote high levels of attendance at work and to enable employees to fulfil all aspects of their role however, it is not the intention of this sickness absence policy to deter those who are genuinely sick from taking appropriate sick leave.

The Management of sickness absence procedure is supplemented by Managers Guidance, which provides more detail of the process as well as guidance to Managers in respect of sickness absence matters.

2. Scope

This Procedure is consistent with the Advisory, Conciliation and Arbitration Service (ACAS). It applies to all Teachers employed by the Local Authority and not attached to Schools.

Key principles

- The aim of the procedure is to promote high levels of attendance at work which will in turn lead to better levels of service provision.
- Following this procedure will enable sickness absence issues to be addressed in a fair and consistent manner so that employees can achieve and maintain a satisfactory level of attendance at work.
- The Council will provide appropriate support for employees who are absent due to sickness or unable to fulfil their duties due to ill health.
- Abuse of the sickness scheme may be dealt with under the Councils disciplinary procedure.
- Employees have a right to be accompanied at any meetings, held as part of this procedure, normally by a trade union representative, an official employed by the trade union or a colleague. Consideration will also be given to allowing additional support in appropriate cases.
- Employees will be given a minimum of 5 working days' notice, in writing, of all meetings held under this procedure.
- Reasonable adjustments should be considered for employees where relevant in accordance with the Equality Act 2010.
- Neither party is allowed to electronically record meetings held as part of this procedure. The use of recording equipment by either party without consent may constitute a disciplinary matter.
- All sickness absence must be recorded accurately and in a timely manner and kept up to date in Workplace. See 'Our Derbyshire, Working Here, Sickness Absence, Absence Recording' for details on how to categorise sickness and record it in Workplace. Records of all contact should be kept on the employee's HR EDRM record and held securely and in accordance with the employee privacy policy.

3. Objectives

The aim of this procedure is to provide support for teaching staff employed by the Local Authority and not attached to schools in their absence and the Council with a fair and consistent means by which short-term and long-term sickness absence and ill health capability is addressed. It aims to support these employees in achieving and maintaining good levels of attendance and to enable employees to fulfil all aspects of their role. It also aims to provide practical support, advice, and guidance to enable those involved to fulfil their roles in the management of employees' attendance and sickness absence.

The use of this procedure will ensure the fair treatment of all employees consistent with good management practice

Regular Monitoring and Support underpins this Procedure.

4. Reporting sickness absence

Employees have a responsibility to report their sickness absence as set out Below:

- Day 1 - Employee reports absence in line with agreed timescales and procedures.
- Day 4 - Employee updates manager on nature / duration of the absence.
- Day 8 - Employee, if still absent, provides a Fit Note.

Where an employee fails to comply with these timescales managers should contact the employee to discuss the absence.

5. Contractual sick pay entitlements

The entitlements set out in Sick Pay Scheme Section of the Burgundy Book will apply, augmented by any additional entitlements (b) as set out in this policy.

a) Burgundy Book Sick Pay Scheme Extract

Provided the appropriate conditions are met, a teacher absent from duty because of illness (which includes injury or other disability) shall be entitled to receive in any one year sick pay as follows: -

During the first year of service – full pay for 25 working days and after completing four calendar months' service, half pay for 50 working days.

During the second year of service – full pay for 50 working days and half pay for 50 working days.

During the third year of service – full pay for 75 working days and half pay for 75 working days.

During the fourth and subsequent years of service – full pay for 100 working days and half pay for 100 working days.

This scale is to be regarded as a minimum and the Authority may extend its application in any individual case.

For the purpose of the sick pay scheme, "service" includes all aggregated teaching service with one or more local education authorities.

Currently Derbyshire County council uses its discretion to also recognise "service" with academies in relation to the provision of sickness pay.

- b) Extensions of the allowances in (a) above for teachers with long service (full and half pay not to exceed 200 working days in total):
- i. 10 years full-time service but less than 20 years – additional 23 working days at full pay *
 - ii. 20 years' full-time service but less than 30 years – additional 46 working days at full pay *
 - iii. 30 years' full-time service and over – additional 69 working days at full pay

6. Maintaining contact

The Council has a responsibility to maintain contact throughout an employee's absence in order to provide a supportive framework to facilitate a successful return to work. Where an employee fails to contact their line manager within the prescribed timescales, the line Manager will contact the employee.

Employees also have a duty to keep their manager informed of any development whilst absent from work and should indicate, where possible, when they are likely to return to work. To maintain contact, an employee who is to be away from home for an extended period (two weeks or more) during sickness absence should inform their manager of their contact details before departure

In some circumstances and where agreed by the employee, it may be preferable for contact to be maintained via third parties, where appropriate. Where an employee or their trade union informs the Head of Service that the direct contact is causing distress and requests contact via their trade union representative this should be accommodated. Any contact will be reasonable and sensitive and will not require employees to set work for pupils or classes they would normally be teaching or undertake any contractual duties for which they are absent with ill-health unless the employee wishes to do so.

7. Return to work discussion

After any absence an approach from the line manager, to ascertain recovery and explore any follow-up action, presents an informal opportunity to exercise interest in the welfare of employees

A return to work discussion will be held with every employee on their return to work after a period of sickness absence, regardless of the length of that absence. In most cases a brief friendly low-key discussion is all that is required. This discussion should take place on the day the employee returns to work. If it is not possible to do this, then the conversation should take place within 2 working days, the discussion should be appropriate to the circumstances and duration of the employee's absence. In appropriate circumstances, (see below) a short, simple record will be produced to ensure clarity about the nature of the discussion and ensure that the perceptions of both parties, as to any conclusions, are understood. A recording form for this discussion is can be downloaded by clicking on this link for the [Return to Work Discussion form](#).

During the discussion the line manager should:

- Ascertain whether the employee has made a full recovery.
- Discuss whether there are any actions required, for example, adjustments either short or long term that are required to enable the employee to carry out the job role, a workplace assessment, referral to Occupational Health, expected improvements, and if so, record them on the return to work discussion form where used, with the appropriate timescales for you to action.
- Bring the employee up to date on work-related issues and developments that have occurred during their absence.
- If it is felt that the reason for absence requires medical investigation or if the level of absence is a cause of concern, then refer immediately to Occupational Health, using the Occupational Health referral form available on Our Derbyshire and the website. Tell the employee if you decide to do this.
- Advise the employee that they will be asked to attend a review meeting if they have hit the absence trigger of 8 days in any 12-rolling calendar month period.
- Where appropriate, remind the employee of the Council's wellbeing policies and guidance on Our Derbyshire. These include information on physical and mental health, work life balance, the counselling service and other wellbeing support. It may be appropriate to refer for physiotherapy
- Complete the return to work form discussion form where appropriate. The return to work discussion form should only be completed where:
 - The employee is having frequent periods of short-term intermittent absence.
 - Where a pattern of absence is of concern
 - The absence is covered by medical certification.
 - The employee is in the capability review process.
 - Adjustments to the job are required.

Where the form is completed then one copy should be retained by the line manager and one copy given to the employee. There should be adequate information on the form to link it with the employee record. If the form is to be used the employee should be offered the opportunity to have a colleague or local trade union rep unless this would cause unreasonable delay.

8. Returning to work following long term absence

A return to work discussion will be held with every employee on their return to work following a period of long-term sickness absence. It may be necessary to meet prior to the return to work to fully explore any medical recommendations e.g. From a GP, medical specialist, or Occupational Health about any adjustments necessary to enable them to return to work. The discussion should be appropriate to the circumstances and a record kept to ensure that any agreements are understood and actioned in line with the timescales agreed. The employee should be offered the opportunity to have a colleague or local trade union representative unless this would cause unreasonable delay. The [recording](#) form can be used to record the conversation which should include.

- Discussion about the reason for the absence and any on-going medical investigations or treatment plans
- Discussion about any on-going support the employee will need.
- Discussion about whether there are any adjustments either short or long term, including phased return which will be required to enable the employee to carry out the job role and, if so, the appropriate timescales.
- Where appropriate, reminding the employee of where and how they can access independent Health advice such as a counselling service, physiotherapy, or access to work.

- Bringing the employee up to date on work-related issues and developments that have occurred during their absence

One copy of the form should be retained by the line manager and one copy given to the employee. There should be adequate information on the form to link it with the employee record.

9. Informal Action

Line managers are responsible for monitoring the absence of their employees. The Council considers that sickness absence is a concern when the following triggers are reached

- 8 working days of intermittent absences which are over two or more occasions in any rolling 12-month period or
- A continuous absence of over 20 working days or
- Where there is other cause for concern on the level or pattern of absence over a longer period of time.

The trigger points are pro rata for part-time employees working their hours over a reduced number of days. See managers guidance for further information.

When an individual who has been identified as triggering the management of sickness absence procedure, the first step is to ascertain the circumstances of the individual's absence.

To do this the line manager/ supervisor needs to check the reason for the absences given on the self-certification forms, or Doctor's Certificates submitted by the individual, over the period or throughout their employment, if appropriate.

The purpose is looking to establish whether there are any common themes, persistent or continuing illness, or whether it is merely an unrepresentative period with no underlying cause or pattern.

If an employee's sickness absence is pregnancy related, the Council must ensure that it complies with its duties towards pregnant employees. So, although the absence is taken into account for sick pay purposes, such absences would not normally be taken into account in respect of meeting triggers and progressing through the attendance management procedure. However, it is good practice to meet with employees after a period of pregnancy related sickness absence to ensure that appropriate support is offered. A pregnancy risk assessment should be completed as soon as an employee notifies you that they are pregnant.

Once the above information is ascertained whether or not there are grounds to warrant calling the individual to an informal discussion should be considered.

Where employees meet the 'trigger' within the procedure, there are often sufficient grounds for concern to make an informal discussion necessary.

10. Ill Health Capability

There may be occasions when an employee is unable to carry out the full duties of their post although they are able to attend work. Advice should be sought from the Advice and Support team and Occupational Health on the most appropriate procedure to follow.

In these cases, it may be necessary to continue or commence with the Attendance Management and Ill Health Capability procedures. For further information see manager guidance.

11. Informal Support

Informal Discussion - 1st Meeting

Where, after consideration of an employee's absence record and taking into account the trigger points a meeting is felt necessary the employee will initially be asked to meet with their Line Manager for an informal discussion. Employees will have the opportunity for a trade union representative, friend, or colleague to be in attendance. The priority of each meeting will be to identify and initiate practical steps to support the employee's return to work or sustain an acceptable level of attendance. It may be necessary to set expectations for improvement.

The purpose of the discussion will be to: -

- a) discuss the individual's absence or absence record.
- b) clarify the reason for the absence/ periods of absence and signpost or offer appropriate support. This may include issues in the employee's personal life or workplace issues.
- c) Discuss, if relevant, the impact of any medical condition or underlying health issues and how impact on attendance might be minimalised
- d) discuss how a disability may be impacting on attendance and any short-term or long-term reasonable adjustments that might improve attendance.
- e) discuss whether any reasonable adjustments would help the employee to return to work or improve their attendance at work. (See manager guidance – reasonable adjustments)

The following courses of action may be considered: -

- i. where relevant, inform the employee what reasonable adjustments have been agreed and/or seek further advice from Occupational Health regarding any reasonable adjustments
- ii. inform the employee that no further measures will be implemented as the manager is satisfied with the explanation of the necessity for the absence.
- iii. inform the employee that their absence may be monitored for the next 1-3 months depending on the circumstances. For long term absences this will be at least 1 month*.
- iv. Where the absences are intermittent require, for a period of three months, the production of an NHS medical certificate from the first day of each period of sickness absence. (Costs incurred will be reimbursed in full by the Council).

**Where a period of absence includes a school closure period it will be normal for absence to be monitored for a period of longer than 1 month taking into account the length of the school holidays.*

Informal Discussion – Review Meeting – Meeting 2

If, following the monitoring period the long term absence is continuing or the relevant level of attendance is not met, and this is not the result of particular extenuating circumstances, then a further informal review meeting should be arranged as soon as practicable.

Where relevant the purpose of this further meeting will be:

- a) discuss with the employee their absence record.
- b) discuss with the employee what steps the employee and/or the service can take to support them to return to work or to improve their attendance, including the consideration of reasonable adjustments on a temporary or permanent basis; (see Managers Guidance or review the current reasonable adjustments, if in place.
- c) consider current available medical and welfare information. If the employee's absence record suggests that a report from the Occupational Health Physician is warranted, and one has not yet been obtained, seek agreement for the employee to be referred. Where an employee refuses to undergo further medical examination they should be advised that a decision may be taken on the information already available.
- d) reinforce the expectation regarding attendance at work where appropriate.
- e) Following meeting 2 management should determine
 - whether temporary or permanent reasonable adjustments would enable an employee to return to work or sustain an acceptable level of attendance.
 - Whether a return to work following a period of long-term absence has been agreed
 - whether the possibility of redeployment should be considered
 - whether the absences are not genuine and disciplinary action may be appropriate.
 - if none of the above are clear, consideration should be given to a further review period.

The following courses of action may be considered:

- i. inform the employee that no further measures will be implemented as the manager is satisfied with the explanation of the necessity for the absence.
- ii. inform the employee that his/her absence may be monitored for the next 1-3 months depending on the circumstances. For long term absences this will be at least 1 month*.
- iii. Where the absences are intermittent require, for a period of three months, the production of an NHS medical certificate from the first day of each period of sickness absence. (Costs incurred will be reimbursed in full by the Council).
- iv. Dependent upon the circumstances and/or introducing reasonable adjustments if appropriate consideration should be given to referring the employee to Occupational Health.

**Where a period of absence includes a school closure period it will be normal for absence to be monitored for a period of longer than 1 month taking into account the length of the school holidays-*

12. Referral to Occupational Health

Guidance should be sought from Occupational Health as part of the management of sickness absence procedures. The advice provided by Occupational Health will include recommendations in relation to reasonable adjustments and may include advice on the ability of an individual employee to participate in the attendance process.

At any stage formal or informal, where occupational health advice has been sought, it would normally be necessary to delay a meeting under the absence procedures until the report has been received.

13. Formal Absence Management Procedures

Where an employee has been continuously absent or where there has been no or insufficient improvement of attendance following at least two monitoring periods of informal action a formal meeting at Stage One of the Formal Management of Sickness Absence Procedures will be held.

Stage 1 – first formal meeting – Meeting 3

The first formal meeting (Meeting 3) will be held with the Head of Service and the employee.

The employee will be given a minimum of 5 working days' notice, in writing, of a Stage 1 meeting held under this procedure.

At the meeting considerations will include:

- The employee's absence record.
- The reasons for absence.
- Up to date medical information provided by the employee.
- A referral to Occupational Health, physiotherapy, or counselling where appropriate.
- The effects of the employees' health on their ability to carry out their role
- Temporary or permanent adjustments where these would allow an employee to return to work. See manager guidance
- Setting a review period of 1 to 3 months, dependent on circumstances. A review period of at least 1 month* will be normal for long-term absence.

Other agreed action may include:

- i) Agree appropriate programme of support for anticipated return to work or
- ii) Set an improvement target and timescale for the required level of sustained attendance to be achieved.
- iii) Consideration of ill health retirement.

On conclusion of the meeting a letter warning that failure to attain/maintain the required level of attendance or ability to carry out the requirements of the role may lead to consideration by the Council of whether the employee's continued employment at the Council can be sustained will be issued.

** Where a period of absence includes a school closure period it will be normal for absence to be monitored for a period of longer than 1 month taking into account the length of the school holidays. Following a lengthy period of school holidays, it may be appropriate to meet at the beginning of a new term outside of the formal procedures to re-establish contact and assess progress before a formal review of progress is made under the formal absence management procedures.*

Stage 1 Review Meeting – Meeting 4

At the end of the review period there will be a review meeting with the employee (Meeting 4) which should include:

- A review of the actions taken at Stage 1 (Meeting 3)
- Steps the employee has taken to improve his/her attendance.
- Current available medical information, including information from the employee and any Occupational Health report where appropriate.
- Reasonable adjustments if these would help the employee to return to work or improve their attendance at work or ability to carry out requirements of the role
- Referral to Occupational Health where this has not previously been done.
- Emphasis of the expectation regarding attendance at work where appropriate
- Consideration of an extension of the review period where attendance has improved but there are still concerns about the employee's overall pattern of attendance, or where further information is awaited
- Removal from the process where attendance has improved to a satisfactory level or the employee has returned to work.
- Where an expected date of return from Long-term absence in the foreseeable future has not been agreed, or where attendance has not improved within the agreed period of monitoring a meeting at Stage 2 of the formal absence management procedures will be arranged.
- Consideration of whether the employee wishes to pursue ill-health retirement under their pension scheme and the next steps

Stage 2 - Meeting 5

The stage 2 meeting (Meeting 5) will be held with the Head of Service or relevant Senior Leader and the employee where there has been continued absence for at least one month since Stage 1 review meeting, OR there has been no or insufficient improvement of attendance or ability to carry out the role within the agreed period of monitoring

The employee will be given a minimum of 5 working days' notice, in writing, of any Stage 2 meeting held under this procedure.

At the meeting considerations will include:

- A review of the information in relation to the employee's sickness.
- A review of the outcomes of all earlier meetings
- Agreeing an appropriate programme of support for anticipated return to work
- Set an improvement target and timescale for the required level of sustained attendance to be achieved or to carry out the full duties of the role
- It would be usual for a further referral to occupational health to be undertaken
- Reasonable adjustments where appropriate. See manager guidance
- Redeployment where the Occupational Health Physician has stated the employee is fit for alternative duties.
- Whether the employee wishes to pursue ill health retirement where appropriate.

- Setting a further review period and advising the employee that if their attendance at work does not improve or there is not a return to work within a set timescale (1 to 3 months, dependent on circumstances. At least 1 month* will be the normal review period for cases of Long-term absence),

On conclusion of the meeting a final warning letter will be issued stating that failure to attain/maintain the required level of attendance or ability to carry out the role may lead to consideration by the Council of whether the employee's continued employment can be sustained

At the end of the review period (minimum 1 month since the Stage 2 Meeting) there must be a further, possibly final review meeting with the employee.

** Where a period of absence includes a school closure period it will be normal for absence to be monitored for a period of longer than 1 month taking into account the length of the school holidays. Following a lengthy period of school holidays, it may be appropriate to meet at the beginning of a new term outside of the formal procedures to re-establish contact and assess progress before a formal review of progress is made under the formal absence management procedures.*

Stage 2 Review Meeting – Meeting 6

At the end of the review period there will be a review meeting. The employee will be given a minimum of 5 working days' notice, in writing, of the formal review (Meeting 6) meeting held under this procedure.

The Stage 2 Review meeting should include:

- A review of information about the employee's sickness.
- A review of the outcomes of all earlier meetings.
- A second referral to OH if not done already. This report should be received before any capability hearing
- A discussion on the potential implications of their continued level of absence, or ability to carry out the role which may lead to an Ill-Health Capability Hearing.
- Consideration of an extension of the review period where attendance has improved but there are still concerns about the employee's overall pattern of attendance, or where further information is awaited.
- Removal from the process where attendance has improved to a satisfactory level or the employee has returned to work or the employee has demonstrated that they are able to carry out the full duties of the role with reasonable adjustments where appropriate.

Stage 3 – Ill-Health Capability Hearing

A hearing should be arranged if attendance at work has not improved to the required standard or if a return to work date has not been agreed or the employee is unable to carry out the full duties of the role with reasonable adjustments as appropriate following the review meeting of stage 2.

If the employee is an accredited TU Representative, it is necessary to discuss/inform the full-time district or area official before action is taken.

14. Dismissal Procedures

If it becomes necessary to refer the case for consideration of potential dismissal an agreed dismissal procedure will be followed and will include:

a) Notice of Ill-health Capability Hearing

The employee should be advised in writing of the requirement to attend a formal hearing.

At least ten working days' notice will be given for the hearing and documentary evidence including all OH reports, will be provided within at least five working days before the hearing.

b) The Ill-Health Capability Hearing

The ill-health capability hearing will be chaired by a manager from the Leadership Job Family (Grade 15 and above), who has had no previous involvement in the case. will be supported by the Advice & Support team.

- The Head of Service or nominated representative will present the case.
- The employee and their representative will have the opportunity to ask questions. The Chair will have the opportunity to ask questions.
- The employee and/or representative will present their response.
- The Head of Service or nominated representative will have the opportunity to ask questions. The Chair will have the opportunity to ask questions.
- The Head of Service or nominated representative will sum up.
- The employee and/or representative will sum up.
- The person presenting the case, the employee and representative will withdraw.
- The Chair will consider all the evidence and decide the outcome. The options will be:
 - i. A further review period with any appropriate warning (repeat of the review meeting at stage 2)
 - ii. Final written Warning
 - iii. Dismissal with notice (redeployment may be sought in appropriate circumstances)

The outcome of the hearing and the right of appeal will be communicated in writing to the employee within 5 working days.

a) Appeal

The employee has a right of appeal. Appeals against dismissal are to Executive Directors and must be registered in a letter to the Director of Organisational Development & Policy. The employee should write to the Executive Director of Children's Service to register their appeal within 10 working days from the receipt of the written confirmation of the relevant decision.

Appeals will be heard by an Executive Director or a member of their Departmental Management Team, normally from a different Department to that in which the original hearing was heard.

The employee, or their named Representative, should set out clearly the grounds of the appeal. The employee will receive a reply to the appeal letter within 5 working days, acknowledging the registering of the appeal, which will take place as soon as practicable.

There will be a minimum of 10 working days' notice of the appeal date. Any statement of case or evidence on which either management or the employee wishes to rely, will be provided to the Appeal Hearing Officer and other party at least 5 working days prior to the hearing.

A legal adviser will be present at any appeal against dismissal

The employee will be entitled to attend with their Professional Association/Trade Union representative, colleague, or friend if they so wish to present their appeal.

The format of the appeal hearing will be the same as the ill-health capability hearing above but the order of business in the appeal hearing may begin with the appellant stating their case, rather than the chair of the stage 3 ill-health capability hearing depending on the grounds of the appeal.

The Chair will consider all the evidence and decide the outcome of the appeal. The options will be:

- i. To uphold the appeal and advise on a further review period with any appropriate warning.
- ii. Not to uphold the appeal and uphold the decision to dismiss the employee.

The decision of the appeal will be final and communicated in writing to the employee within 7 calendar days. That outcome is the final stage within the Council's procedures.

