

# Attendance Management Guidance

## 1. Attendance Policy & Procedure

## 2. Checklist

## 3. Support

- Human Resources
- Occupational Health
- Learning & Development
- Health Safety & Wellbeing
- Attendance Management Toolkit

## 4. Provision of Sick Pay & Leave

## 5. Leave & Public Holidays

## 6. Notification & Certification

- Notifying sickness absence
- Certification of sickness absence
  - Self-certificate
  - Fit note certificate

## 7. Sickness during the Working Day

## 8. Medical Appointments

## 9. Recording & Monitoring Absence

## 10. Contact during Absence

## 11. Managing Return to Work

- Doctors' recommendations
- Phased return
- Altered & reduced hours
- Amended duties
- Workplace adaptations
- Counselling

## 12. Referrals to Occupational Health

## 13. Managing Absence

- Unauthorised absence
- Non-genuine absence
- Frequent short term absence
- Long term absence
- Termination due to ill-health

## 14. Other Guidance

- Pregnancy related absence
- Disability
- Gender re-assignment
- Substance misuse
- Critical & terminal illness

## 1. Attendance management policy and procedure

The purpose of these guidelines is to provide advice to managers and employees on the use of the Council's [Attendance Management Policy and Procedures](#).

All parts of these guidelines apply to Council employees, apart from Agenda for Change employees, including Teachers and Associated Professionals, unless where overwritten by the Scottish Negotiating Committee for Teachers (SNCT) Conditions of Service, which are regularly updated by SNCT Circulars.

Teachers and Associated Professionals must read these guidelines in conjunction with the SNCT Handbook of Conditions of Service, particularly Part 2 Section 6.

## 2. Attendance management checklist for Managers

- ✓ Ensure that the Council's approach to attendance management is discussed with all employees at [induction](#) including their responsibilities relating to notification of absence and the health and safety requirements of their job
- ✓ Ensure that all managers have received appropriate training in attendance management
- ✓ Ensure there is a local arrangement in place to [record and monitor](#) sickness absence, and that all sickness absence is recorded accurately
- ✓ Ensure that all employees know the [accident and injury reporting system](#), and ensure that all accidents are [investigated](#)
- ✓ Ensure that all necessary [risk assessments](#) and personal [emergency evacuation plans](#) (PEEPs) are carried out
- ✓ Ensure that attendance management is discussed at every annual [Employee Review & Development](#) meeting (or equivalent process)
- ✓ Apply the attendance management policy consistently and fairly, and in line with the Council's [equal opportunities policy](#)
- ✓ Discuss any problems with an employee at an early stage, offering support and advice where necessary.
- ✓ Make contact with the employee as soon as the [fit note](#) is received
- ✓ [Keep in touch](#) with employees who are absent due to ill health on a regular basis, normally not less than fortnightly
- ✓ Conduct and record [return to work meetings](#) with all employees on the day

they return to work

- ✓ Take into consideration any reasonable suggestions on **adjustments** to work contained in the fit note, to assist employees in returning to work
- ✓ Refer employees to **Occupational Health** when advice is required or an external Fit to Work assessment
- ✓ Ensure proper consideration is given to the occupation health advice when making any decisions relating to attendance and ensure that the employee is fully informed and consulted about this advice
- ✓ Consider other employees who may be affected by return to work arrangements and inform them of the arrangements.
- ✓ Ensure strict confidentiality is maintained at all times.

### 3. Support

#### Human Resources

HR Services will advise and support managers and employees when dealing with specific cases and implementing the attendance management policy in a fair and consistent way.

#### Occupational Health

Occupational Health Services provide advice on the impact that an employee's health will have on their attendance and the workplace. Advice can be provided on appropriate measures to manage a return to work, including workplace adjustments.

#### Learning and Development

Learning and Development Services provide management training on the management of attendance. The session offers practical advice on implementing the policy and gives managers the opportunity to explore ways of dealing with a variety of cases. **On-line learning** (internal link) resources are also available.

#### Health, Safety and Wellbeing

Health, Safety and Wellbeing Services team provides advice on all areas of health, safety and wellbeing including risks assessment, injury at work and accident reporting and investigation.

#### Attendance Management Toolkit

An **Attendance management Toolkit** (internal link) is available to support the active management of attendance and includes guidance on creating and maintaining a healthy workplace and developing an understanding of common

health conditions.

## 4. Provision of sick leave and pay

### Statutory Sick Pay and Sickness Allowance

When absent due to illness an employee will normally receive sick pay or a sickness allowance made up of two parts, subject to satisfying certain criteria.

The first part is Statutory Sick Pay (SSP). The second part is sickness allowance (commonly known as sick pay or occupational sick pay) from the Council.

Some employees may not receive SSP; they may, however, be entitled to State Benefit. Payroll will advise managers of this, who in turn should advise the employee.

Where an employee has more than one job there may be circumstances when a doctor will assess the employee as unfit to carry out one of the job roles but fit for work in another. In this case, subject to qualifying criteria, the employee would be entitled to receive SSP for one of their jobs and continue to receive normal pay for the other. The same applies to sickness allowance.

### Payment and Period of Entitlement

The entitlement to payment during sickness absence is dependent on the employee's conditions of Service

### Scottish Joint Council Employees

Entitlement to sickness allowance depends on the employee's length of continuous local government service.

<b>Continuous Service at Commencement of sickness absence</b>	<b>Full Allowance For</b>	<b>Half Allowance For</b>
Less than 26 weeks	Zero weeks	Zero weeks
26 weeks but less than 1 year	5 weeks	5 weeks
1 year but less than 2 years	9 weeks	9 weeks
2 years but less than 3 years	18 weeks	18 weeks
3 years but less than 5 years	22 weeks	22 weeks
5 years or more	26 weeks	26 weeks

Sickness absence is calculated on the basis of a rolling 12 month period. Sick pay over and above SSP is at the Council's discretion and employees may be excluded from receiving sickness allowance, as outlined below.

Payroll inform managers when an employee is about to go from full to half sickness allowance and again when the employee's entitlement to half sickness allowance is

about to cease. The Managers should inform the employee in a sensitive way that this stage has been reached.

Payroll also advises managers on aspects of Statutory Sick Pay (SSP) which is separate from sickness allowance and is governed by different rules.

An employee is not entitled to receive sick pay if they:

- have less than 26 weeks continuous local government service
- are sick during a work stoppage due to a trade union dispute unless he/she has not taken part in the trade union dispute and has no direct interest in it
- have exhausted their sick pay entitlement on first day of sickness
- are in legal custody, or subsequently taken into legal custody
- are on maternity leave
- have terminated their contract or their contract of employment is terminated by the Council

### Teachers and associated professionals

Teachers and Associated Professionals' conditions relating to qualification and entitlements are covered in Part 2 Section 6 of the [SNCT Handbook of Conditions of Service](#), which should be read in conjunction with this part of these guidelines.

The sickness allowance is complementary to the statutory payments which a teacher and any associated professional may receive and is subject to accrual of at least 18 weeks continuous qualifying service.

Continuity of qualifying service is broken if a break exceeds two weeks. However, a newly qualified teacher will have until 1 November of the year following entry to the Induction Scheme to secure a first teaching appointment, without having broken their service for the purpose of entitlement to sickness allowance.

Teachers and associated professionals returning from maternity leave will have their previous service taken into account for the purpose of entitlement to sickness allowance provided that the break in service does not exceed 8 years and that no paid employment has been undertaken during the break.

A teacher or associated professional absent from duty on account of sickness or injury will normally receive, in any one period of 12 months, sickness allowance in accordance with the following table:-

<b>Service at Commencement of Absence from Duty</b>	<b>Full Salary for a period of</b>	<b>Half Salary for a period of</b>
Less than 18 weeks	Nil	Nil
18 weeks but less than 1 year	1 month	1 month
1 year but less than 2 years	2 months	2 months
2 years but less than 3 years	4 months	4 months
3 years but less than 5 years	5 months	5 months
5 years or more	6 months	6 months

## Suspension of sick pay scheme

Sick pay can be suspended for a period of time if the employee:

- abuses the sickness scheme
- continues to disregard notification procedures
- continues to disregard certification procedures
- is absent on account of the sickness being due or attributable to deliberate conduct prejudicial to recovery; due to the employee's own misconduct or neglect; or due to active participation in professional sport; or due to injury while working in the employee's own time, on their own account for private gain or for another employer.

In these circumstances an investigation in accordance with the Council's Disciplinary policy and procedures (or appropriate LNCT agreement) will be carried out and the employee may, as a result, be disqualified from payment of sick pay and/or other disciplinary sanctions may be imposed.

## Industrial Injuries Disablement Benefit (IIDB)

You may be entitled to Industrial Injuries Disablement Benefit if you're ill or disabled as a result of an accident or disease caused by work or while on an approved employment training scheme or course. The amount you may get depends on your individual circumstances. Further information can be found on the [Highland Council website](#).

The accident or injury at work must be reported to your manager as soon as possible so that the relevant forms and investigation process can be followed.

If an employee subsequently receives compensation from a third party, reimbursement of sick pay received will be payable to the Council.

## Expenses for Occupational Health Appointments

If currently at work, the employee will be given time off to attend a medical examination arranged by the Council. The employee will receive travelling expenses from place of work to the place of examination. If the examination occurs out with normal working hours (appointments are between 9am and 5pm), there will be no additional payments, excepting travel expenses. Subsistence payments may be payable in certain circumstances.

Where an employee is already absent through sickness, and required by the Council to attend an Occupational Health appointment, they will be expected to make themselves available either within, or out with normal working hours. In such cases travelling expenses from normal place of work to the place of examination will be payable at public transport rates. Subsistence payments may be payable in certain circumstances.

If it is the case that a report has been sought by the Council from the employee's own doctor, who then requires the employee to attend a consultation/examination during working hours, the employee will be given time off with pay. Again travelling expenses will be paid. There will be no additional remuneration if the consultation takes place outside normal working hours. The same condition will apply to consultation at the employee's doctor where the employee is already on sick leave.

## **5. Leave and public holidays**

### **Sickness during annual leave and public holidays**

If an employee falls ill during annual leave, then they should inform their manager as early as practicable.

A doctor's fit note (or equivalent if abroad; obtained at the employee's cost) must be provided if the period of sickness is to be treated as sick leave and attract sick pay.

The employee will be held to be on sick leave only from the date of a doctor's Fit Note (or equivalent if abroad) covering that sickness.

The employee will be allowed annual leave at a later date, but only for those days covered by a doctor's Fit Note and taken with the manager's approval.

A public holiday falling in a period of sickness absence will not be granted as a day off at a later date.

A self-certificate can be submitted but the period it covers will not be treated as sick leave but annual leave.

Managers of teachers and associated professionals should make sure that their employees are made aware of the need to notify sickness during holidays to secure sick pay benefits.

Teachers and Associated Professionals' conditions relating to **sickness during school holidays** are covered in Part 2 Section 6 of the **SNCT Handbook of Conditions of Service**, which should be read in conjunction with this part of the guidelines.

### **Annual leave during sickness absence**

An employee on sick leave is not prevented from applying for and taking annual leave. An employee cannot, however, receive both sick pay and holiday pay at the same time.

If an employee on sick leave wishes to take annual leave, then they must follow the Council's normal procedures and obtain their manager's approval.

The employee will have to make sure that the annual leave will not adversely affect their health or prolong their recovery period.

In certain circumstances the manager may consider a referral to Occupational Health for advice before approving an annual leave request.

The employee can return to sick leave and receive sick pay (if still entitled) on return from leave.

### **Accrual of annual leave during sickness absence**

Teachers and Associated Professionals' conditions relating to accrual of annual leave during periods of sickness absence are covered in Part 2 Section 6 of the SNCT Handbook of Conditions of Service, which should be read in conjunction with this part of these guidelines.

An employee who is absent on paid or unpaid sick leave will continue to accrue contractual annual leave entitlement in accordance with the employee's terms and conditions of employment. This includes floating public holidays but not fixed public holidays.

Adjustments upwards need to be made where the accrued leave (pro-rata) is less than their statutory entitlement. For example, an employee with less than 5 years service whose contractual annual leave is made up of 20 days plus 4 floating public holidays will require to have their leave adjusted to 28 days.

Annual leave accrued during a period of sickness absence must be taken within 12 months from return to work. It is advisable that the leave be taken prior to return or used as part of a phased return to work.

## **6. Notification and certification**

### **Notifying Sickness Absence**

On the first day of sickness absence, an employee must notify their manager of:

- The nature of illness - if the employee does not wish to reveal the exact nature of the illness the manager should have a confidential discussion to agree an appropriate description of the cause.
- Details if the absence is related to an accident at work
- The anticipated length of absence
- If the absence is expected to be of 7 calendar days or more, any steps the employee is taking e.g. details of any doctor's appointments arranged
- Details of any outstanding or urgent work that needs to be dealt with during their absence
- Details of how the employee can be contacted if necessary

The employee should contact their manager by telephone as soon as possible after commencement of normal working hours and certainly within 1 hour of their normal start time ([Notification of absence flow chart](#)).

Employees should not normally ask anyone else to make contact on their behalf unless it is not possible for them to do so. If this does occur then the same information should be provided, as far as is practicable.

Where Services have specific alternative arrangements for reporting absences, these should be communicated to employees within that Service on a regular basis and must be observed by all employees.

In cases where an employee has not turned up for work and has not notified anyone the manager should try and make contact with the employee as soon as possible. This is predominantly to ensure that the employee is safe. If contact cannot be made the manager should consider other means of trying to find out about the employee's wellbeing, e.g. home visit or contacting next of kin.

On notification of absence the manager should arrange for a self-certification form to be completed by the employee.

Teachers and Associated Professionals' [notification requirements](#) are covered in Part 2, Section 6 of the SNCT Handbook of Conditions of Service, which should be read in conjunction with this part of the guidelines.

## **Certification of Sickness Absence**

### **Self-Certificate**

Where an employee is absent for one to seven days inclusive (including Saturday/Sunday, public and general holidays) they must complete and sign the self-certificate form, and provide it to their manager on return to work.

(Teachers and associated professionals are currently required to provide a self-certification for any sickness absence lasting between 4 and 7 days however for recording purposes the absence should be recorded from day one.)

Failure to complete and to return a self-certificate form must be dealt with by the manager, who should discuss the hold up in submitting the form with the employee.

If a self-certificate was sent to the employee and the absence continues beyond 7 days, the employee must return the completed self-certificate covering the first 7 days of their absence to their manager as soon as possible.

An employee may also submit a Med 10 form, which provides details on the period of time he/she has spent as a hospital inpatient.

In cases where a fit note has been produced from day one of the absence self-certification will not be necessary.

## Fit Note Certificate

From the eighth day of any sickness absence the employee must obtain a fit note from their doctor and submit this without delay to their manager.

If the absence continues, the employee should obtain subsequent fit notes and submit these in the same way.

The **fit note** may be used by the doctor to advise the employer that an employee is unfit for all work or may indicate that the employee may be fit to **return to work** under certain circumstances. This may include phased return, altered working hours, amended duties or workplace adaptations.

It is important that the manager contacts the employee without delay to ensure early discussion about the practicalities of the doctor's recommendations, particularly when the doctor's advice relates to adaptations.

An employee may wish to return to work prior to their fit note expiring, in which case there is no requirement to obtain confirmation from the employee's doctor that they are fit to return. The manager should meet with the employee to discuss the fit note and if the manager is concerned about an employee returning to work without having recovered they may wish to consider a referral to Occupational Health, if this is required the employee would remain absent until medical advice had been sought.

Teachers and Associated Professionals' **certification requirements** are covered in Part 2, Section 6 of the SNCT Handbook of Conditions of Service, which should be read in conjunction with this part of the guidelines.

## 7. Sickness during the working day

Where an employee becomes ill while at work and feels too unwell to continue working, they should speak to their manager to confirm they are leaving their work (either temporarily or for the day) and to seek medical advice where appropriate.

Absence from work for part of a working day, which is less than half their normal working day, is not recorded as sickness absence but a note should be made by the manager so that it may be taken into account when discussing patterns of absence.

For example if an employee whose normal daily working hours are 7 leaves after 4.5 hours, the absence of 2.5 hours is not counted as sickness absence, however, if the employee left after 2 hours, the absence of 5 hours would be recorded as 0.5 days sickness absence.

## 8. Medical Appointments

Hospital, doctor or dentist appointments should be arranged out of core working

hours if at all possible or so as to give minimal disruption to the working day.

The Council's **special leave scheme** allows employees to apply for paid special leave for attendance at hospitals or clinics for either out-patient treatment or examination.

When requesting leave, the individual should provide their manager with appropriate documentation confirming the appointment where appropriate.

Appointments relating to surgery or dentistry for cosmetic purposes should normally be arranged outside working hours or taken as annual leave.

Teachers and Associated Professionals' special leave policy is covered in **LNCT 37**, agreement which should be read in conjunction with this part of the guidelines

## 9. Recording and monitoring absence

### Recording Absence

The effective control of absence is supported through:

- recording absence, monitoring patterns of absence, analysing and acting on those records to encourage good attendance
- effective supervision
- making sure that employees know how and when to report absence and what to report
- return to work meetings after each period of absence

If attendance is to be managed effectively, absence needs to be carefully recorded and measured. It is for Services to maintain records, and for managers to monitor and manage absence.

The Council has a statutory responsibility to produce absence returns to Audit Scotland and it is essential that accurate records are maintained.

As soon as the manager receives the notification of absence due to sickness they must record the absence on 'My View' and submit this information to payroll. Where Services have specific alternative arrangements for recording absences, these should be communicated to managers within that Service on a regular basis.

### Monitoring of Absence

Once a quarter Service Directors must prepare absence data held to assess:

- rate of absence (days lost) to the Service
- 'cost' of absence
- patterns of absence (long term and short term absences)
- most prevalent reasons for absence
- link to health and safety breaches

- percentage of return to work meetings completed (if available)
- actions taken to reduce absence

Each Service will report on the average number of day lost per employee to their Strategic Committee quarterly.

The Highland Council will report on the average number of day lost per employee to their Audit Scotland annually as a statutory performance indicator.

## **10. Contact during Periods of Sickness Absence**

Both managers and employees have a responsibility to keep in touch with each other, particularly during periods of long term absence.

In occasional circumstances, the contact will be between another manager and the employee.

The manager should generally make initial contact on receipt of a Fit Note and repeat at least fortnightly.

The manager should ensure that any briefing notes, newsletters and any other communication are forwarded to absent employees. Such contact helps the employee to keep up to date with what is happening in the workplace, and assists with the smooth return to work by the individual.

The manager can discuss referrals for medical reports and explore whether any temporary adjustments would help the employee return to work early. The employee can also provide an indication of their likely return date, which will assist the manager's decisions on cover arrangements.

The manager should be mindful of the particular circumstances of the absence, e.g. there will be cases such as traumatic injury or sudden serious illness, when contact may have to be made via carers or relatives first.

Managers must ensure that employees are treated fairly and consistently, however, each absence must be treated on an individual basis.

Where a period of sickness absence is likely to be long term the manager should consider a welfare visit. Normally after approximately 28 days, the aim of this visit is to enquire about the employee's wellbeing, recovery progress and any assistance that may be required to support a return to work.

The employee must be contacted beforehand and they must agree to the meeting taking place and its venue. In certain circumstances it may be appropriate for the employee to come into the workplace or meet in a neutral location.

It may be beneficial to involve the employee's representative.

It is important that the contact to arrange a visit or meeting is handled with sensitivity and care and that reasonable notice is given to the employee as to its purpose, in

order to avoid the employee becoming alarmed or agitated. This may be particularly relevant in cases involving stress or other mental health issues.

A letter is not generally the most appropriate way of making contact. A more personal, less formal approach is normally always preferable. If a letter is required, as the manager has been unable to contact the employee, a [template letter](#) is available.

The meeting may be followed up with a letter to confirm any agreements that were made with the employee. As a minimum the manager should prepare a file note summarising discussions.

If the employee does not agree to a meeting any decisions made regarding the ongoing management of the individual's absence will be based on the information available at that time.

## 11. Carrying out return to work meetings

Managers should conduct [return to work meetings](#) with the employee on the day they return to work ([return to work flow chart](#)).

Where an employee has been absent for a short period of days the manager is required to enquire about the employee's wellbeing, confirm that they are fit to return and hold a discussion to bring them up to date with what has happened at work over that period.

If the absence is one of a pattern of similar absences, or the absence was for a prolonged period then the discussion will be more detailed and outline any concerns the manager may have in line with the Attendance management policy.

The manager should complete and submit the return to work form on 'My View' with the employee. If the manager does not have access to 'My View' they will be required to complete a paper return to work form as a record of the meeting.

The purpose of the interview is to demonstrate care for the employee's health and welfare and underline the importance of their attendance at work. It may be that there are particular rehabilitation needs that the manager should be aware of, e.g. follow up doctor's appointment, physiotherapy, and the manager should take the opportunity to inform the employee of any support that may be available.

Normally the immediate manager should conduct the return to work meeting. In some instances the discussion will involve details that would require the involvement of another manager. Managers should be sensitive and guided by the employee.

The return to work meeting is an important part of attendance management and should achieve the below objectives:

- it is an opportunity to have a positive, supportive, one- to-one conversation

between manager and employee

- the cause of the absence can be confirmed
- genuine interest in the employee's welfare can be expressed
- it re-introduces the employee to the workplace updating them on what has happened during their absence and current priorities
- it provides the opportunity to remind the employee of the need for good attendance
- it allows an assessment to be made as to whether stress or other mental health issue may be a factor and whether a referral to Occupational Health may be required
- it allows for a discussion about the employee's continued additional support requirements, including counselling
- it allows time for the employee to raise any concerns they may have
- it provides the opportunity to help build the employee's confidence, particularly when returning after a long absence period
- the manager can confirm whether all appropriate certification has been submitted, and remind the employee of the notification and certification process as required.
- the manager can be assured about the employee's fitness and capability for work and check for workplace adjustments which may require to be made
- the manager can inform the employee of their intention to refer them to Occupational Health
- provides an opportunity to discuss health and safety requirements of the job

It is important that the return to work meeting is carried out in a supportive and constructive manner and is applied consistently to all employees.

Return to work meetings should be held in private and conducted on the day the employee returns to work or if this is not possible, i.e. manager is on leave as soon as possible after the individual's return.

The manager should record any agreed action, workplace adaptations, assistance offered and/or given, expected improvements plus concerns which either party has raised.

It may be that the circumstances are such that the manager also needs to confirm the nature and outcome of the discussion in a letter to the employee.

## Accident or injury at work

If an employee has an injury or accident at work, the manager must complete an [Accident Form](#) (internal link) in accordance with the guidance notes on the Staff Intranet for the reporting of accidents, incidents and occupational ill health.

Referral to [Occupational Health](#) (internal link) should be considered if there is any concern about the impact of the injury or accident on the employee's ability to work, whether the accident results in absence or not.

It is the responsibility of managers to ensure that all workplace [accidents are investigated](#) (internal link) thoroughly and that remedial action is taken to prevent a recurrence. These investigations can be undertaken by managers or on their behalf, to determine the causes of accidents and remedial measures which require to be taken.

Teachers and Associated Professionals' conditions relating [to absence due to accidents](#) are covered in Part 2 Section 6.20 of the SNCT Handbook of Conditions of Service, which should be read in conjunction with this part of the guidelines.

## Risk assessment

Managers are responsible for reviewing [risk assessments](#) (internal link) if there are any limitations on the employee's ability to complete their full duties e.g. lifting, driving.

It may also be necessary for managers to complete a [personal emergency evacuation plan](#) (PEEP) to enable an employee to return to work e.g. an employee on crutches may temporarily need to be located on the ground floor.

## Managing the return to work process

Following a period of sickness absence most employees will immediately return to their normal duties and normal hours of work.

There will be instances when an employee's doctor or Occupational Health makes specific recommendations with regards to the return to work. These can include the following:

- Phased return
- Altered or reduced hours of work
- Amended duties
  - Workplace adaptations
- Counselling

Managers may be required to carry out a [risk assessment](#) prior to making a decision and depending on the advice received. This should be discussed with the

employee and kept under review.

### **Doctors' recommendations on fit notes**

If the employee's doctor recommends a return to work subject to adaptations the manager should discuss these recommendations with the employee and agree an appropriate plan, including clear timescales.

There may be a need to carry out a risk assessment before the Manager can agree all or some of the recommendations made.

The manager, having considered the options, may come to the conclusion that a return to work under the recommended adaptations may not be possible. The doctor's advice is not binding on the Council, however, if changes to allow a part or full return to work cannot be implemented the employee continues to be considered unfit for work until they are fully recovered.

It may also happen that the employee does not agree with the doctor's view that they may be fit to work and does not wish to return to work despite the doctor's recommendation and the manager's decision that this could be accommodated.

In this case the manager should discuss the employee's reasons in order to establish whether the employee's refusal to return to work is reasonable and whether anything else, which had not previously been considered, requires to be done.

If no agreement can be reached, the Manager may consider consulting with Occupational Health, or if they have reason to believe that this is a conduct issue, they may invoke the Council's Disciplinary Procedure.

While the dispute continues the employee will be on sickness absence to the end of the period the doctor has indicated on the Fit Note.

### **Phased Return**

This is normally recommended when the employee's doctor or Occupational Health advise that the employee may benefit from a gradual increase in the intensity of their work duties or their working hours over a specified period of time until they are able to carry out their normal working duties and hours again.

When a manager receives such a recommendation it is important that they contact the employee to discuss this and to consider any suggestions that are being made.

Depending on the job or work environment, it may be necessary to carry out a risk assessment before coming to a decision.

Where a phased return is agreed the manager should confirm the arrangements, including timescales and review arrangements, in writing to the employee.

During the phased return where the employee works less than their normal

contractual hours they will normally be eligible to receive their full pay for a period of up to 4 weeks.

This period may only be extended in exceptional circumstances including when making a reasonable adjustment for an employee suffering from a disability, who may otherwise not be able to return to work for some time. If the employee cannot return to their normal contractual working hours after a period of 4 weeks, the manager must discuss the options available as follows:

- Use of annual leave to cover extended phased return
- Use of flexi-time to cover extended phased return
- Temporary variation in contractual working hours
- Permanent variation in contractual working hours

The length of a phased return programme will depend on the particular circumstances and the nature of the condition the employee is recovering from. Managers should be guided by the doctor and Occupational Health's recommendations and liaise with HR Services if they require specific guidance.

### **Altered and Reduced Hours**

The employee's doctor or Occupational Health may recommend altered hours if they believe that an individual will benefit from a change to the hours that the employee normally works, in order to return to work. For example allowing more flexible hours could support an employee who is still receiving treatment to return to work and attend treatment sessions during normal working hours.

Temporary and permanent variations in contractual working hours must be confirmed to and accepted by the employee in writing and will decrease the employee's salary.

### **Amended Duties**

Amended duties will normally be recommended for a specified period if the medical professional believes that the employee may be able to return to work if their duties are amended to take into account their condition.

Amending duties on a temporary phased return basis will normally have no bearing on the employee's pay.

### **Workplace Adaptations**

Workplace adjustments will normally be recommended where it is believed that the employee may be able to return to work if their workplace is adapted to take into account their condition. For example, the provision of a specific chair for someone who has musculoskeletal problems may support their return.

Workplace adaptations can be temporary or permanent and require to be reviewed regularly to ensure that the support provided is still adequate.

## Counselling

There may be situations when a referral to Occupational Health is not required but the manager has established that the employee may benefit from counselling.

In this case the manager would normally make initial contact with a counselling service to inform them and to set up the arrangements. Then the employee should phone the counselling service to agree an appointment.

The Council will normally cover the cost of up to 6 counselling sessions. If more sessions are required, the employee should discuss this with their manager.

The contact details for this Counselling Service can be found [here](#).

## 12. Managing referrals to occupational health

### When to use Occupational Health

If a manager has concerns relating to the wellbeing of an employee, these should be discussed with the employee and a management referral to Occupational Health may be made.

Occupational Health has an understanding of the workplace, the environment and its link to employee health and is available to give professional advice on a range of matters.

Advice is available on (list is not exhaustive but provides examples):

- preventative and remedial measures regarding an employee's medical condition
- the need for a doctor's report to establish whether or not frequent short-term absence is due to a medical condition
- the assessment of an employee's health before and after hospitalisation
- the impact of a health problem on the employee's ability to carry out the duties of their job role
- recovery timescales and potential long term rehabilitation needs, particularly in cases of long term sickness absence
- temporary and/or permanent adjustments to the work place or job duties that would assist in maintaining the employee's health and reducing the effects of the health problem on attendance
- potential implications of the Equality Act, particularly with regards to disability related sickness absence
- the assessment of an employee's health to attend meetings
- the employee's suitability for redeployment
- proposals for managing the particular case
- providing physiotherapy treatment

In order to fully respond to a referral Occupational Health may also seek a medical report from the employee's doctor or specialist.

There will be occasions when it is particularly appropriate to seek a medical opinion, for example where:

- an employee has frequent short-term absences due to illness and the manager wishes to establish whether there are underlying medical reasons
- an employee provides insufficient information regarding the reason for sickness absence
- ill-health retirement is being explored

Further situations which may require Occupational Health involvement include:

- There is an indication that the employee's sickness absence is due to a reason that is protected by the Equality Act.
- The employee is absent due to a chronic or permanent health condition such as cancer, chronic fatigue syndrome, depression, epilepsy, hearing loss, HIV, multiple sclerosis, rheumatoid arthritis, schizophrenia, visual impairment or following back surgery.
- The required work place adaptations are over £1,000, in which case additional funding could be applied for from [Access to Work](#).
- The doctor has recommended a return to work but the employee refuses without providing reasonable explanation.
- There is an indication that the employee is suffering from a condition that the manager finds difficult to understand and too complex to manage without Occupational Health involvement.

### **Musculoskeletal Disorders**

Where the absence is related to a musculoskeletal disorder, the manager should arrange an early referral to Occupational Health in order to assist the recovery process and return to work. Appointments and /or advice are available, via the Occupational Health referral process, with a physiotherapist. Posturite is a company which can be contacted to provide ergonomic products designed to support employees in the work place, eg chairs, desks, mouse, keyboards. Click [here](#) for a Posturite referral form.

### **Mental Health**

The Council is committed to supporting employees who experience mental health issues. Particular challenges may arise for a manager when an employee develops or exhibits signs of mental health problems. If a manager is concerned that an employee may be experiencing mental health problems which are affecting their work performance, behaviour and/or conduct, they should discuss their concerns with the employee and arrange an early referral to Occupational Health. This should be done whether or not the employee is off sick. The Council also has trained Mental Health Representatives who act as a first point of contact for colleagues with Mental Health difficulties. They can offer reassurance and sign post colleagues to appropriate support.

## Stress

The Council is committed to the management of stress at work. Whilst stress may not be caused by the workplace, it is recognised that managers can use various strategies to identify, remove and minimise the potential sources of stress at work.

Managers should pay particular attention to employees who may be suffering from stress or who are absent for a stress-related reason and should make a referral without delay to Occupational Health.

Further information, guidance and support can be found on the [Health and Safety intranet site](#), including guidance on completing a stress risk assessment when the employee returns to work.

## Referral Procedure

Where a manager considered that a referral to Occupational Health is necessary, they should meet with the employee to discuss their intention and provide reasons prior to the referral being made.

Similarly, if an employee believes that their condition may be related to an activity at work they should inform their manager, who may as a result consider a referral to Occupational Health.

There is no option for employees to make a self-referral directly to Occupational Health but they may wish to approach their manager to discuss a referral.

Referrals to Occupational Health should be made using the [Occupational Health Referral form](#). Once completed these should be discussed with the employee and, following this, the form should be forwarded to [Occupational.HealthReferral@highland.gov.uk](mailto:Occupational.HealthReferral@highland.gov.uk)

Each case will be treated individually and the following is an indicative list of some of the information that the manager should provide as part of the referral:

- the purpose for which the Council is seeking information on the employee's condition, e.g. advice on likely return date; information on future rehabilitation needs; a request from the employee for ill-health retirement
- a description of the current duties and responsibilities
- employee information on their view of the absence, including the reasons for the absence and possibilities of improvement
- information on sickness absence over 24 months prior to current or last absence
- information on any external influences, for example travelling arrangements, night time working, shifts
- information on the availability of alternative employment
- information on the opportunity to adjust the workplace/ working conditions to facilitate the employee's return
- any risk assessments relevant to the job role/duties

## Employee Responsibilities

Employees are required to attend Occupational Health appointments and medical examinations arranged by the Council. However, if the employee has reasonable grounds for not attending they are expected to cancel the appointment by contacting the Occupational Health provider at least 48 hours in advance.

If an employee fails to attend an appointment without reasonable cause they will be charged for the cost incurred. If an individual does not attend their occupational health or medical appointment arranged through the management referral process, a further appointment will be made. If an appointment is missed for a second time, the manager will arrange a review meeting with the individual.

Any decisions made following the meeting regarding the on-going management of the individual's absence will be based on the information available at that time and in the absence of advice that would have been available had the employee attended the Occupational Health or medical appointment as requested.

## Occupational Health Reports

Employees will receive a copy of their report after their appointment via Occupational Health. The manager, on receiving the report, should discuss the content of the report and the proposed course of action with the employee.

([template letters available](#)).

As each circumstance is different, the content and advice contained in the report will be particular to the individual employee.

Possible conclusions drawn from the report could be:

- that the employee is not fit to undertake the full duties of the present post and should be considered for alternative duties or alternative posts
- a definitive view or conclusion cannot yet be reached because of the particular circumstances, and the situation will be reviewed in a few weeks or months
- the employee is fit or will be fit to return to their existing job and may or may not require ongoing support
- the employee should refrain from undertaking particular aspects of the job, either temporarily or permanently, but can return to employment
- that the employee's health condition is to be treated as a disability
- that the employee returns to work in another capacity for a temporary period
- that the employee returns in some phased way
- that retirement or dismissal on the grounds of ill health may be appropriate

## Fit for Work

In some circumstances a manager may be contacted by 'Fit for work Scotland'. This is an initiative delivered by NHS 24 and NHS Health Scotland on behalf of the Scottish Government and DWP.

The service provides free, confidential and impartial advice to employees, employers, and GPs, to help people return to, and stay in, work after a period of sickness absence. GPs or employers can refer an employee to this service and a health professional will contact all parties and act as a case manager to support the employees return to work.

For more information visit: <http://fitforworkscotland.scot/>

## 13. Managing absence

### Managing unauthorised absence

Unauthorised absence is any period of absence which is not notified or certificated.

If the employee has not followed the notification or certification procedure, it should initially be discussed with the employee at their return to work meeting.

If the employee has a continuing absence and does not produce certificates or produce them on time, the manager should contact the employee to remind them.

It is important for the manager to emphasise the importance of adhering to the sickness notification and certification procedure. If the employee continues to ignore the procedure this should normally be dealt with as a conduct issue in accordance with the [Council's Disciplinary Policy and Procedure](#) and an employee should not be paid sick pay for any period which is not covered by a self-certificate or a fit note.

The following [letter](#) can be used to inform an employee that sick leave will not be paid.

### Managing sickness not regarded as genuine

An employee's behaviour may lead to the manager questioning the genuineness of the sickness absence. Examples include:

- Frequent short-term absence with no plausible explanation
- Undertaking paid work or as a volunteer while on sick leave
- Recurring absence pattern, e.g. Fridays/Mondays, sickness linked to holiday periods or special events

Where a manager is concerned that sickness absence may not be genuine they should investigate this carefully.

The manager should use the return to work meeting as an opportunity to explore their concerns with the employee and try to establish how their attendance can be improved.

If the manager considers that there are no good medical reasons for the absences,

they should deal with it as a conduct issue in accordance with the [Council's Disciplinary Policy and Procedure](#).

The outcome of any disciplinary hearing, depending on the circumstances of the case, may include:

- Withdrawal of sick pay for non-genuine periods of absence, and/or
- A formal oral warning (provided there is no other absence related warning on the employee's file)

### **Managing frequent short term absence**

Frequent short term absence is best tackled by managers always carrying out effective return to work meetings.

Frequent short term absence is costly and disruptive to ongoing service delivery. Such absence is usually very visible to managers but the 'My View' absence planner and the quarterly reports on sickness absence can assist in identifying and evidencing frequent short term absence.

Unacceptable frequent short term absence should be considered using the Council's [attendance procedure](#).

As a means of guidance the following sickness absence patterns would normally trigger use of the attendance review procedure ([see persistent short term absence flow chart](#)):

- 4 separate occasions of sickness absence in a rolling 12 month period
- 10 days (in total) of sickness absence in a rolling 12 month period

Following application of the [attendance procedure](#), where no underlying medical problem can be established to explain the levels of absence, any dismissal will be on the grounds of capability arising from the employee's poor attendance record.

### **Managing long term absence**

The aim of effectively managing long term sickness absence is to facilitate an employee's return to work at the earliest reasonable point.

Long term sickness absence is any absence due to ill-health lasting 28 days or longer ([see long term absence flow chart](#)).

It is particularly important to keep in touch with employees on long term sickness and the manager should keep a record of the contact that has been made.

The manager should normally arrange for a referral to Occupational Health once an employee has been off sick for a period of 3 weeks, unless an acceptable return

timescale has already been provided by the employee's doctor and the return does not require, at this stage, Occupational Health involvement e.g. recovering from surgery or a cardiac condition. Certain conditions including **musculoskeletal disorders**, **mental health** and **stress** should be subject to an earlier referral to Occupational Health.

In some situations it may be more beneficial to refer the employee to Occupational Health once the employee is able to provide a return to work date e.g. after surgery.

The manager should be guided by the advice provided by Occupational Health when considering the employee's long term sickness absence. If Managers have any questions for Occupational Health regarding making a referral they can email [hrattendancesupport@highland.gov.uk](mailto:hrattendancesupport@highland.gov.uk) who will try to respond within one working day. Questions may include the appropriate timing of a referral, whether the referral should be made or to ask about a medical condition reported by an employee.

Unacceptable long term absence should be managed using the Council's **attendance procedure** and discussed with a member of HR Services.

The employee must be kept fully informed of developments, particularly if their employment is at risk and their job can no longer be kept open for them or medical advice confirms that they are unable to return to their post.

In this case the manager in consultation with the employee must try and identify suitable alternative employment elsewhere in the Service or the wider Council.

Following application of the **attendance procedure**, where is not acceptable to wait for the employee to return to work the employment may be terminated due to ill-health.

### **Managing termination due to ill-health**

Following application of the Council's **attendance procedure**, where the employee's attendance levels have not improved the manager, after taking advice from HR, will normally inform the employee that a recommendation to terminate their employment with the Council will be made to the Director/Head of Service.

### **Guidance on decision making**

Before considering a recommendation to dismiss the manager should consider the following:

- Are there adequate and accurate records of absence and the reasons for it?
- Has the employee previously been informed of the effect of persistent periods of absence?
- Has the situation been discussed with the employee so that they knew that termination of employment was a possibility?
- Is the decision to dismiss consistent with treatment of employees in similar

situations?

- Is the use of this procedure appropriate in this case, e.g. if absences were due

to domestic problems which are now resolved how likely is it that the level of absence will continue?

- Does the employee need support, e.g. debt counselling?
- Is there any action which can be taken to alleviate the problem, e.g. have flexible working arrangements been considered to support with domestic circumstances?
- Have earlier improvement agreements been documented?
- Has the employee been encouraged to visit a doctor, particularly if each occasion of absence has been self-certificated only?
- Has there been a referral to Occupational Health?
- Has the possibility of substance misuse been explored?
- Have Occupational Health advised whether there are likely to be any links to Equality legislation, i.e. does the absence relate to a protected characteristic, e.g. hospital appointments or treatment required because of a disability? If this is the case, the Equality Act requires an employer to make reasonable adjustments which includes allowing time off for treatment, or disregarding some of the absences for attendance management purposes.
- Can the Council reasonably be expected to wait any longer for the employee's health attendance record to improve bearing in mind the position which the employee holds, the need to be fair to the employee and the impact the absence has on other employees?
- Is the decision a reasonable response by a reasonable employer in the circumstances?

Before making a decision to dismiss an employee the Head of Service/Director should consider the following:

- Have alternative employment opportunities, training, adjustments, support been considered?
- Has the employee been engaged throughout the process and been made aware that dismissal is a possibility?
- Has the employee been advised to take advice e.g. from a Trade Union?
- Has advice been sought from Occupational Health about the employee's condition and the likelihood of improvement, so the nature of the illness is clear?
- Has the employee been sufficiently consulted about their ill health problems and given an opportunity to give their views on the matter since the medical reports were received and have those points put forward by the employee been considered?
- Have the employee's views been balanced with medical opinions?
- Has the employee or their representative had the chance to put forward any other points before deciding whether or not to dismiss, what was the consideration, and response to these points?
- Can the Council reasonably be expected to wait any longer for the health attendance record to improve, bearing in mind the interests of the Council and the Service, the position the employee holds, and the need to be fair to the individual?
- What is the need for the work to be done? Is there an impact of the absence on others, and how can it be overcome?

- Would the decision to dismiss, be considered a reasonable decision by a reasonable employer?

### **Ill Health Retirement**

Following receipt of the relevant Occupational Health assessment of whether or not ill health retirement is an option, a meeting should be held with the individual and, if they wish, their representative, to discuss the position.

If the conclusion is that the individual qualifies for retirement on the grounds of permanent ill health, a range of information will be discussed with the individual including likely date of retirement, notice period, annual leave entitlement, and pension benefits the employee may be entitled to.

HR Services, or in the case of teachers and associated professionals the Care & Learning Staffing Unit and SPPA, must be involved in the discussions with the employee to ensure that the individual accepts the decision that he/she be retired on the grounds of ill health.

HR Services or the Care & Learning Staffing Unit will advise on the actions to be taken including terminating employment and writing formally to the employee.

### **Dismissal on the Grounds of Capability**

If there is genuine sickness but there is no resolution to the sickness problem, and the employee does not qualify for ill health retirement, any dismissal will be on the grounds of medical capability.

Dismissal by reason of medical capability must follow application of the Council's [attendance procedure](#).

Authority to dismiss an employee lies with Directors and Heads of Service who have Level 4 authority as detailed in the Designated Officers List which is maintained by HR Services.

If the Director or Head of Service decides to dismiss an employee the reasons for the dismissal will be outlined and summarised in a letter to the employee making them aware of their right to appeal.

### **Appeals**

Employees have a right to appeal against dismissal. The appeal should be submitted in writing to the Director or Head of Service within 10 working days of receipt of the letter.

Appeals will be heard by the Appeals Sub-Committee, and the appeal will end at this level within the Council.

## 14. Other guidance

### Pregnancy related absence

Pregnancy-related sickness absence should be recorded separately and should not be taken into account when looking at an employee's sickness absence record for the purpose of attendance management.

Pregnant employees have rights to paid time off for antenatal care, which can include medical examinations, relaxation and parenting classes.

An employee who is absent due to a pregnancy-related illness during the four week period prior to her due date will be required to start her maternity leave, and will be entitled to maternity pay and not sick pay.

Odd days of pregnancy-related illness during this period, however, may be disregarded if the employee wishes to defer the start of her maternity leave period, and a **risk assessment** does not indicate that carrying out work will endanger her pregnancy.

Although there is no statutory entitlement to time off for fertility treatment employee requests for time off to undergo such treatment should be treated sympathetically and may require allowing annual leave or unpaid leave. Time off for medical appointments in connection with infertility treatment should be dealt with in the same way as for any other medical appointment. If an employee becomes ill as a result of infertility treatment, they should receive sick pay in the usual way.

### **Disability**

It's unlawful for an employer to discriminate against a disabled employee. A disabled person is someone having 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.

A long term impairment is one which has lasted for at least 12 months or is likely to be of that period or to last the rest of the person's life or may have ceased to have a substantial effect, but is likely to recur.

Disability is not the same as illness, though illness can lead to disability and a disability may lead to other health issues.

Managers must consider reasonable adjustments for a disabled employee which might well include allowing them to be absent during working hours for rehabilitation for assessment or for treatment, adjusting attendance trigger levels or disregarding some or all of the absences by way of an adjustment if this is reasonable.

The Council may have to make reasonable adjustments before an employee can return to their job. These could include:

- making physical adjustments to the workplace

- allocating some of the disabled employee's duties to another employee
- transferring the disabled employee to another vacant post, with or without reasonable adjustments being made
- altering the disabled employee's working hours through, for example, part-time working, job sharing or other flexible hours arrangements
- providing special equipment to assist the disabled employee with performing his or her tasks, and giving/arranging training in the use of the equipment.

Disability-related sickness absence should be managed with advice from HR Services and Occupational Health Services, where necessary.

### **Gender re-assignment**

Where a transsexual employee is absent from work because they propose to undergo, are undergoing or have undergone gender reassignment, the absence should be treated in the same way as any other absence due to illness or injury.

### **Substance misuse**

Where there are grounds for believing that an employee's absence is due to substance misuse the Council's [guidance on substance misuse](#) should be followed.

### **Critical and terminal illness**

When an employee tells their employer about an initial diagnosis it is usually difficult for all concerned. Managers need to handle the conversations with care and sensitivity and ensure strict confidentiality.

The individual may have fears and concerns such as:

- the effects of the illness and the treatment, including their life expectancy
- being able to talk about it to colleagues
- being able to take time off
- guilt at taking time off
- not being able to do their job
- financial difficulties

Employees who suffer from a critical or terminal illness may not always inform their manager immediately once a diagnosis has been made

Employees will react differently to the subject, some being much less able than others to talk about their illness. The most important thing a manager can do is listen. Consideration should also be given to the impact this could have on close colleagues if they become aware of an employee's terminal illness.

Managers should keep in touch with HR Services to discuss options available for employees suffering from critical or terminal illness.