



**ORKNEY**  
ISLANDS COUNCIL

# **Sickness Absence Policy and Procedure**

**July 2016**

Next scheduled for review July 2019

All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format please contact HR Support on 01856873535 extension 2250 or email [hrsupport@orkney.gov.uk](mailto:hrsupport@orkney.gov.uk)

# Contents

1. Policy Statement.....	4
2. Scope of the Policy .....	4
3. Roles and Responsibilities.....	5
4. General Principals .....	7
5. Definitions of Short term and Long term Absence .....	7
6. Trigger Points .....	7
7. Monitoring of Sickness Absence.....	8
8. Reporting of Sickness Absence.....	8
9. Maintaining contact during Sickness Absence.....	9
10. Certification of Sickness Absence.....	9
11. Representation .....	10
12. Occupational Sick Pay.....	11
13. Sickness and Annual Leave/Public Holidays .....	11
14. Employees holding more than one post with the Council .....	12
15. Disability and the Equality Act 2010.....	13
16. Reasonable Adjustments.....	13
17. Stress related Absence.....	13
18. Medical/Hospital Appointments and Treatment .....	14
19. Occupational Health .....	14
20. Fit for Work Scotland .....	15
21. Phased Return to Work .....	16
22. Redeployment.....	17
23. Short Term Sickness Absence Procedures .....	17
24. Long Term Sickness Absence Procedures.....	21
25. Staged Approach to Management of Absence .....	26
26. Discretion.....	28

27. Right of Appeal .....	30
28. Short Term Sickness Absence Flowchart .....	31
29. Long Term Sickness Absence Flowchart.....	32
Appendix 1 – Council Occupational Sick Pay Schemes Summary.....	33
Appendix 2 – Guidance on Reasonable Adjustments.....	34
Appendix 3 – Phased Return to Work Arrangements Form.....	39
Appendix 4 – Notification of Termination of Sickness Absence. ....	41
Appendix 6 – Return to Work Interview Form. ....	44
Appendix 7 – Short Term Absence Counselling Meeting Checklist .....	48
Appendix 8 – Long Term Absence Review Meeting Checklist.....	52
Appendix 9 – Ill Health Retirement Process Guidance. ....	55
Appendix 10 – Health or Absence Related Capability Guidance .....	59
Appendix 11 – Management Discretion Request Form .....	62

# 1. Policy Statement

1.1. Orkney Islands Council aims to encourage and support all its employees to maximise their attendance at work.

1.2. The Council recognises that employees will, from time to time, be unable to come to work because of sickness. However, the Council regards high levels of attendance at work vital for the maintenance of an effective employment relationship and to ensure that the Council can deliver efficient and effective services to the communities of Orkney.

1.3. The Council aims to adopt a fair and consistent approach to the management of sickness absence, which takes account of any reasonable support that could be put in place to support employees to return to work and minimise ongoing absence.

1.4. The Council's approach to the management of absence has an underlying principle of early intervention in order that support and assistance can be put in place to help an employee return to work as early as possible and reduce ongoing potential absences, and the adverse impact that these can have for the individual, their work colleagues and the Council.

1.5. High levels of sickness absence are costly and disruptive and can lead to:

- Additional pressure being placed on work colleagues leading to higher levels of stress and low morale.
- Loss of continuity for Service users.
- Additional salary costs necessary to cover absences.
- Poor reputation for Orkney Islands Council.

1.6. Addressing sickness absence properly can also benefit employees by:

- Providing an opportunity for support and assistance from the Council through the period of absence.
- Helping to identify work-related and non-work related issues that are causing or contributing to sickness absence.
- Identifying clearly the attendance standards expected by the Council.

## 2. Scope of the Policy

2.1. The Sickness Absence Policy and Procedure will apply to all employees of Orkney Islands Council including: Scottish Joint Council (SJC)/Single Status employees including Heads of Service, Teachers and other employees covered by Scottish Negotiating Committee for Teachers (SNCT) conditions of service, Orkney College Academic staff, Chief Officers including Executive Directors and the Chief Executive.

2.2. The Sickness Absence Policy and Procedure will be reviewed by the Head of Human Resources and Performance, or their nominated representative, in conjunction with recognised trade unions in line with the schedule for the review of all Council Human Resources Policies and Procedures, normally every three years. Should changes to employment law, best practice recommendations or schemes of Conditions of Service dictate, a review within this timescale can be carried out by agreement with the Head of Human Resources and Performance.

2.3. Appendices to the policy and procedure and subsequent guidance issued in respect of facilitating the proper use of this policy and procedure shall be revised and updated by the Head of Human Resources and Performance or their nominated representative as appropriate. Such revisions, other than where they would constitute substantive change to practice, shall not normally require further consultation with the recognised Trade Unions or that the policy is formally submitted to Council for approval.

### **3. Roles and Responsibilities**

#### **3.1. Executive Directors/Heads of Service**

Executive Directors and Heads of Service are responsible for:

- Ensuring the overall effective monitoring and management of absence and are accountable for the levels of absence within their Service.
- Ensuring all managers and supervisors work to the policy and manage sickness absence efficiently and effectively.
- Authorising fair, consistent and appropriate variations from the procedure for managing absence in accordance with the provisions of section 26 of this policy and procedure.

#### **3.2. Line Managers**

Line Managers are responsible for the monitoring, management and control of their employees' attendance and absence and are accountable for the sickness absence levels of their staff. In maintaining acceptable levels they must:

- Ensure that employees for whom they are responsible are made aware of and have access to this policy.
- Ensure that they are fully aware of and comply with the provisions of this policy and procedure, identifying and dealing with issues which arise in a fair, consistent, confidential, timely and supportive manner.
- Be supportive and intervene at an early stage to ensure that the impact of and length of sickness absences are minimised wherever possible.
- Treat every absence as genuine; management of absence is focused on minimising the length of any absence and/or reducing the levels of ongoing absence to minimise the impact of absence for the employee and the Council.
- Be clear that the approach to the management of absence being adopted is not a performance management or disciplinary process.
- Conduct a supportive return to work discussion after every sickness absence, trying to establish any underlying reasons for sickness absence and record the outcome of the discussion.
- Ensure that prompt and accurate reporting of the start and end of periods of sickness absence is provided to Payroll in accordance with Council procedures.
- Maintain a process for the monitoring of levels of sickness absence for their staff, including identification of where trigger points are reached or exceeded.
- Manage sickness absence in a fair and consistent manner in accordance with the provisions of this policy and procedure including holding review meetings, setting review periods and absence targets.
- Ensure that relevant self and/or GP certification is received and forwarded to Payroll for every period of absence.
- Maintain regular contact with any member of staff off sick (see sections 8 and 9).

- Where necessary, seek advice, guidance or support from Human Resources in respect of any aspect of the management of sickness absence.
- Seek advice and guidance from the Council's Occupational Health Service, where appropriate.
- Ensure that staff are aware of and adhere to the correct absence reporting procedures.
- Ensure that staff are aware of the impact of unsatisfactory attendance/sickness absence for their colleagues and service provision.
- Where appropriate ensure that staff are aware of the consequences of continuing unsatisfactory attendance/sickness absence including the possibility that it may lead to dismissal.

### **3.3. Employees**

All Council employees should:

- Attend work in accordance with their contract of employment, unless they are genuinely unfit to do so.
- Report all sickness absence in accordance with this policy and procedure (see section 8) and any service specific arrangements.
- Ensure that a self-certificate is completed and submitted as soon as possible for every period of sickness absence.
- Ensure that GP medical certificates (Fit Notes) are provided timeously for the entire duration of any period of absence totalling eight calendar days or more.
- Maintain regular contact with their line manager during any period of sickness absence (see sections 8 and 9).
- Ensure that their lifestyle/activities outwith the work environment could not adversely impact on their ability to undertake their employment with the Council in respect of health/sickness absence.
- Co-operate with management in respect of any action/process arising out of the sickness absence policy and procedure.
- Highlight to their line manager/other appropriate manager or Human Resources any work related issue that they consider to be impacting on their health.

### **3.4. Human Resources**

Human Resources will:

- Write, review and implement this policy and procedure in consultation with the recognised Trade Unions within the Council.
- Design, deliver or source relevant training and briefings to managers in respect of the operation of this policy and procedure.
- Support employees through the provision of advice in respect of this policy and procedure.
- Provide relevant advice and support to managers in respect of dealing with sickness absence issues.
- Produce regular trigger point reports in respect as a reminder for managers.

### **3.5. Trade Unions**

Trade Union roles and responsibilities include:

- Work to support the Council in respect of the design, implementation, and operation of this policy and procedure.
- Supporting their members, including the provision of advice and representation through the stages of the procedures, ensuring that their members are aware of their rights and responsibilities under this and other relevant policies.
- Supporting the Council in the requirement to monitor and evaluate the impact and effectiveness of this policy and procedure.

## 4. General Principals

4.1. Managers will adopt a supportive and constructive approach to managing absence, taking into account individual circumstances.

4.2. Every effort will be made to ensure that absence issues are dealt with promptly, confidentially, consistently and effectively, demonstrating clear outcomes at all stages.

4.3. All appropriate efforts will be made to support and assist an employee absent due to sickness and reasonable steps will be taken to facilitate their return to work at the earliest opportunity.

4.4. Every employee will know and understand that regular attendance at work is of vital importance and that absence procedures must be adhered to.

## 5. Definitions of Short term and Long term Absence

5.1. Short term absence is defined as any continuous period of absence less than four weeks in duration.

5.2. Long term absence is defined as any continuous period of absence of four weeks or more.

## 6. Trigger Points

6.1. The Council has a target set by the Scottish Government to achieve and maintain an overall level of sickness absence no higher than 4%. It is however an additional objective of the Council that continual efforts should be made to reduce the levels of sickness absence given the significant impacts that it has for the Council, its employees and on delivery of services to the communities in Orkney.

6.2. The Council has established two trigger points in respect of sickness absence, which indicate that an employee's level of absence from their employment is of concern. Absence levels reaching or exceeding these should prompt early, supportive management intervention where this has not already happened.

6.3. The purpose of supportive management intervention at these early stages is with a view of identifying if there is an underlying cause of the absence, looking at what support may be able to be put in place to prevent or at least reduce further absence. These are referred to as trigger points and are:

**Three or more period of sickness absence in a six month period; or**

**Any period of absence of or anticipated to be four weeks or more.**

6.4. Supportive, early intervention where an absence is anticipated to be four weeks or more, rather than waiting for four weeks then starting an intervention, will in many instances support an earlier managed return to work, thus reducing the impact of long term sickness absence for both the employee and the Council.

## **7. Monitoring of Sickness Absence**

7.1. Managers must ensure that they have appropriate arrangements in place to enable them to record and monitor an individual employee's levels of sickness absence, which will highlight where an individual's absence reaches/exceeds a trigger point.

7.2. Such arrangements do not need to be complex or onerous. A Template Absence Management spreadsheet has been developed and can be used where managers do not already have their own mechanisms in place. This is available from Human Resources or on the Council Portal.

## **8. Reporting of Sickness Absence**

8.1. All employees are required to correctly and timeously report all sickness absence in accordance with this procedure. Failure to do so may result in the period of absence being considered to be unauthorised absence, for which payment of statutory and/or occupational sick pay may be withheld. Additionally, failure to adhere to Council policies and procedures can result in action being taken under the Council's Disciplinary Policy and Procedure.

8.2. The general requirements in respect of reporting of sickness absence are:

### **Day One**

The employee should telephone their line manager (or other nominated point of contact) as early as possible and no later than one hour after the normal start time for the day/shift that day.

The employee should, as a minimum, advise of the reason for their absence and the anticipated length of absence (if known).

### **Ongoing Notification**

Where the absence extends to four calendar days (including non-working days), the employee should contact their line manager (or other nominated point of contact) again if they have not already been in contact again since the first day of absence.

In addition to the requirements for contact on day one and day four, there is a requirement that employees maintain ongoing regular contact with their manager to continue to notify of their sickness absence.

It is normally the responsibility of the employee to maintain such contact, although it is considered appropriate that should contact not have been received from an employee their line manager may contact them to find out what is happening.

For longer term periods of absence the submission of medical notes by an employee is not on its own considered to be maintaining regular contact. There is a requirement that the employee has regular, ongoing discussions in respect of continuing sickness absence with their line manager.



8.3. Notification of sickness absence via email, leaving of messages with colleagues or on voicemail, through text or social media of any kind are not acceptable; Where the manager or nominated point of contact is not available at the time of calling, a message may be left. However, the responsibility to talk to the manager or nominated point of contact still remains with the employee and they should call back to talk to them.

8.4. Getting a friend/work colleague to notify of sickness absence is not acceptable and will not satisfy the requirement of notification of sickness absence.

8.5. Getting a family member/friend to notify of absence is not acceptable, unless the employee is incapacitated and unable to call in to notify of their absence.

## **9. Maintaining contact during Sickness Absence**

9.1. It is important that contact is maintained during periods of sickness absence. The responsibility to maintain contact rests equally with the line manager and employee. Managers should establish from the outset the appropriate method and frequency of contact.

9.2. The manager must ensure that there is regular informal contact with the employee during the period of absence. The decision as to whether personal and/or work related news is relayed should be taken on a case-by-case basis, with particular care being taken if the absence is due to work related stress.

9.3. For long term absence it is recommended that contact between the manager and employee is mutually agreed at an early stage of the absence in terms of frequency and method.

9.4. In most cases contact with the employee will be by telephone or letter. Meetings may be required to discuss Occupational Health reports and as part of the regular scheduled review procedures etc. Meetings can be held at the employee's place of work or other suitable Council office/establishment.

9.5. Meetings at the employee's home can only take place with the specific agreement of the employee and such an approach should not be put in place for any formal review or meeting as part of this policy and procedure.

## **10. Certification of Sickness Absence**

10.1. A self-certification form is required to be completed for every period of absence no matter how short or long. It is the responsibility of the employee to complete and return this form to their line manager as soon as possible, normally on the first day back to work.

10.2. For long term periods of absence a self-certificate form may be posted out to the employee at their home address for them to complete and return to their line manager.

10.3. In addition to a self-certificate for any period of absence lasting for eight consecutive calendar days or longer (these include non-working days) a GP medical certificate (Fit Note) is required to be submitted by the employee.

10.4. Completion and submission of self-certificates and GP medical certificates are a requirement for the payment of statutory and occupational sick pay. Failure to complete and/or submit these timeously may result in the period of absence being considered to be unauthorised absence, for which payment of statutory and/or occupational sick pay may be withheld. Additionally, failure to adhere to Council policies and procedures may result in action being taken under the Council Disciplinary Policy and Procedure.

10.5. Self-certificates and GP medical certificates should be sent to the manager and not to Human Resources, Customer Services at School Place or Payroll. The manager will then forward these to Payroll.

10.6. Where certification has not been received timeously, it is considered appropriate and reasonable for a line manager to contact the employee whilst off sick to ensure that correct certification for the sickness absence is received.

10.7 For any period of Industrial Action, the normal reporting procedures for sickness absence are suspended for any sickness absence that commences on the day of the industrial action. Medical certification (Doctor or Hospital) of such absence will be required for the payment of occupational sick pay. Where there is an entitlement to statutory sick pay, this will still be made where a medical certificate is not provided, as long as a self-certificate is completed to cover for the period of sickness absence and notification of absence has been in accordance with this policy and procedure.

## **11. Representation**

11.1. The Council recognises that it is best practice to allow an employee to have the opportunity to be accompanied by either a work colleague or a trade union representative or official employed by a trade union at all formal stages of this procedure.

11.2. Formal stages are defined as Initial and Further Absence Counselling Meetings and Health/Absence related Capability Meetings in the Short Term Absence Procedure (see section 23) and all stages in the Long Term Absence Procedure (see section 24). It is not normal that an employee will be accompanied to an informal meeting under this procedure i.e. return to work discussion or return to work interview.

11.3. There is no right to be accompanied or represented by a Solicitor or other legal representative at any stage of the internal Absence Management Procedure.

11.4. The right to be accompanied is normally limited to one individual, unless for example an employee with a disability requires additional support.

11.5. Where an employee wishes to be accompanied by a family member instead of a work colleague or trade union representative, particularly relating to instances of long term or serious ill health, this is agreeable.

11.6. Although the choice of which work colleague or Trade Union Representative accompanies them normally rests with the employee, where the choice of individual could present a conflict of interest, or would result in an unreasonable delay to the process, the employee may be advised to seek an alternative individual to accompany them. The meeting will be re-arranged to allow this where necessary.

## **12. Occupational Sick Pay**

12.1. Under the various conditions of service Council employees have occupational sick pay schemes. These generally allow for period of time at full pay and half pay dependant on the length of continuous local government service. Appendix 1 provides a summary of the various Occupational Sick Pay Schemes.

12.2. Entitlement to and payment of Occupational Sick pay for an employee will be in accordance with their relevant conditions of service as outlined in their contract of employment.

12.3. Qualification for payment of occupational sick pay is dependent on correct and timeous reporting (section 8) and certification (section 10) of sickness absence.

12.4. Payment of occupational sick pay may be suspended where the Council has reason to believe that the absence is due to:

- The employee's own misconduct, negligence.
- Deliberate conduct which is prejudicial to recovery.
- Failure to observe the terms pertaining to the occupational sick pay scheme.

12.5. Where an employee receives damages as a result of a non-work related accident, any occupational sick pay made due to the accident must be repaid (either the total amount or proportion thereof represented in the amount of damages received) to the Council, unless the employee has been the victim of a violent crime and the damages are awarded by the Criminal Injuries Compensation Authority.

12.6. Where an employee is absent due to sickness or as the result of a disability due to a work related injury or illness, subject to the accident book having been completed in respect of the injury, payment in respect of the absence will be made through a separate industrial injury allowance rather than occupational sick pay.

12.7. Finance Services (Payments) will notify employees of their entitlement to Statutory Sick Pay ending or where there is no entitlement to payment of Statutory Sick Pay. This notification will normally be through the issue of an SSP1 Form to the individual employee's home address.

12.8. Human Resources will normally provide employees with reasonable advance confirmation of their occupational sick pay reducing from full to half pay and/or when their half pay period will end.

## **13. Sickness and Annual Leave/Public Holidays**

13.1. Sickness absence on one of the Council recognised public holiday days will not entitle an employee to take the public holiday day at a later date.

13.2. Sickness absence during authorised annual leave may enable an employee to be credited with the annual leave. In order to for this to happen the employee must have satisfied the following provisions:

- Correct notification of the sickness absence in accordance with section 8 of this policy and procedure.

- Provision of Medical Certification covering the entire period of leave for which they were sick, self-certification is not sufficient for these purposes.

13.3. Where an employee is absent due to sickness for a period exceeding twelve weeks, annual leave entitlement will be limited to an amount equal to the period actually worked during the contractual leave year.

13.4. In accordance with the Working Time Regulations, the provision referred to at paragraph 13.3 will not be applied so as to reduce the employee's annual leave entitlement to below the statutory minimum of 28 days including public holidays, pro rata for part-time/week/term-time employees.

13.5. Following a return from a period of long term sickness absence where an employee has outstanding annual leave to take, and there is sufficient time for the remaining leave to be taken within the present annual leave year, there would be no entitlement to carry forward any leave to the following year, other than the Council default position of up to five days pro rata.

13.6. Where a period of long term sickness absence continues over two separate leave years, or a return to work in one year does not allow for time to take all outstanding leave, carry-forward of the minimum level of annual leave entitlement should be allowed. No separate approval process is required where the amount of leave carried forward exceeds five days.

13.7. Where someone has been off significantly long term due to sickness absence there is a statutory maximum time period of eighteen months for which annual leave accrued during sickness absence can be carried forward. Any leave from outwith this period will be lost and will not be paid in lieu.

#### **For Teachers and Music Instructors, covered by SNCT Conditions of Service**

Where a Teacher or Music Instructor, owing to certified sickness absence, has been incapacitated for a continuous period of eight consecutive days or more, the employee will accrue compensatory leave if the following conditions are met. For each certified absence the employee will accrue leave of two days for every five days of designated annual leave which cannot be taken, subject to a maximum credit of eight such days in any one leave year.

## **14. Employees holding more than one post with the Council**

14.1. It is the responsibility of the employee to notify any absence to all relevant managers.

14.2. Employees must make their manager(s) aware if they have more than one job with the Council. Their managers should then liaise and share information regarding the employee's absence with the other manager(s) to identify the most appropriate course of action and to ensure that the employee is not putting their health and safety at risk by continuing to attend work in the other post(s). It is important to recognise that jobs may have different responsibilities and therefore different impacts on an employee's health and any reasonable adjustments which may be required.

14.3. Absence management procedures can take place jointly covering both posts, although managers from each service area need to be present to allow a consistent approach within the procedure.

## **15. Disability and the Equality Act 2010**

15.1. Where an employee considers that they are affected by a disability, or any medical condition which affects their ability to undertake their work, they should inform their line manager.

15.2. Absences in connection with sickness absence arising due to an employee's disability will be treated as sickness absence. The absence should be considered either under the short term or long term absence procedures as appropriate.

15.3. Once it is considered that an employee has a disability covered by the Equality Act 2010, at each meeting particular consideration should be given as to whether there are any reasonable adjustments that could be made to the requirements of an employee's post or other aspects of their working arrangements that will provide support at work/assist with their return to work.

15.4. Where an employee has disclosed that have a disability, their line manager should discuss with them confidentially the effect, if any, of their disability on their work and whether reasonable adjustments are required. In some cases, depending on the individual circumstances, a reasonable adjustment may be to re-assess the application of a trigger point. Such an approach would require approval by the Head of Service or Executive Director in accordance with section 26 - Discretion.

15.5. Line managers must be aware of the requirements of the Equality Act 2010 when making any decision that affects an employee who may have a disability as defined by the Act.

15.6. Advice and guidance is available from Human Resources in respect of any aspect of the management of sickness absence, including disability and reasonable adjustments.

## **16. Reasonable Adjustments**

16.1. The Equality Act 2010 places a duty on employers to make 'reasonable adjustments' to any provision, criterion or practice that they apply and to physical features of their premises to accommodate the needs of employees with disabilities. Please note that reasonable adjustments can be agreed on a temporary, occasional or permanent basis and can be subject to review.

16.2. The purpose of a reasonable adjustment is to remove any disadvantage the employee's disability has on their ability to perform their day to day duties. It is the employer's duty to identify, consider and implement adjustments – it is not enough to simply ask Occupational Health and/or the employee their views of what adjustments are required.

16.3. Facts such as costs and practicability of making an adjustment and the resources available may be taken into account in deciding what is reasonable. See appendix 2 for separate guidance/information on reasonable adjustments.

## **17. Stress related Absence**

17.1. Where an employee has indicated that they are/may be suffering from work related stress it is vital that their manager take the necessary steps at the earliest opportunity to seek an understanding for the reasons behind this. Where possible the manager should try to agree reasonable actions to minimise or remove the stressors.

17.2. Employees are advised to inform their line manager if they believe they are suffering with work related stress. If they would like to speak to someone out with their Service they can contact Human Resources.

17.3. Although an early referral to Occupational Health in such circumstances may be beneficial, this should not normally be of benefit or occur prior to a meeting to try to understand the reasons for the issues and discuss reasonable actions to address them.

17.4. Reference should be made to the separate Council Policy on Stress Management for further guidance.

## **18. Medical/Hospital Appointments and Treatment**

### 18.1. Out-patient and In-patient Medical Appointments/Treatment

18.1.1. Arrangement in respect of time off for Out-patient and In-patient Medical Appointments/Treatment are covered under the Council Leave of Absence or Leave of Absence (Teachers) Policies.

18.1.2. Any out-patient or in-patient treatment that results in admission to hospital will be classed as sickness absence and require completion of the necessary certification. Any period of sickness absence relating to an out-patient or in-patient medical appointment/treatment will not be counted for the purposes of Council trigger point monitoring.

### 18.2. Cosmetic/Elective Surgery

18.2.1. Absence due to an individual undergoing cosmetic or elective surgery which is not medically recommended is not classed as sickness absence. Payment of occupational and statutory sick pay will not be made.

18.2.2. Where unforeseen post-operative complications or issues occur resulting in absence these would be covered under sickness absence procedures. Payment of occupational and statutory sick pay would be made, subject to qualifying provisions.

## **19. Occupational Health**

19.1. The Council has in place arrangements for the provision of independent, professional Occupational Health advice in respect of health issues that impact on employment.

19.2. The Council does not operate a self-referral process to Occupational Health. However, an employee may make a request for referral through their manager or Human Resources where they believe that their health is impacting on their job or their job is impacting on their health.

19.3. A referral to Occupational Health can be made at any point during the sickness absence process. However, employees will normally only be referred where Occupational Health input will assist with the management of the absence situation, for example where an employee advises that an underlying medical condition is the cause of the absence etc.

19.4. Managers should complete the Occupational Health Referral Form and submit this to Human Resources, who will then make arrangements for the referral to Occupational Health. Human Resources will confirm the arrangements to the manager and the employee.

19.5. Referrals to Occupational Health not initiated by the employee must always be discussed with the employee in advance by the line manager. The employee must be advised on the reasons for the referral and the information/advice that is being sought. It is recommended, as best practice, that the line manager provide the employee with a copy of the completed Occupational Health referral form prior to or during this discussion.

19.6. In general terms, the type of advice and information Occupational Health would be able to provide includes:

- Confirmation of whether the employee has an underlying medical condition which may be causing or contributing to sickness absence from work.
- Advice on reasonable adjustments to the workplace and/or duties of the post.
- Advice on whether a possible short-term temporary or permanent redeployment opportunity would be suitable for an individual given their health situation.
- Advice on whether an employee would be permanently unfit for their role.

19.7. Occupational Health advice is provided on an independent basis to the Council as an employer and can take account of reports from GP's and/or Specialists where Occupational Health feel that these are medically necessary.

19.8. Where the advice from Occupational Health and that from an employee's GP/Specialist differs, the Council will always follow the independent advice from Occupational Health.

19.9. Where an employee is not in agreement with the advice from Occupational Health, a referral back to the same Occupational Health professional will normally be made in the first instance to enable the employee to raise these points (if they have not already done so). The Council can also seek to arrange a referral to a separate Occupational Health professional for a second opinion where this is necessary.

19.10. A referral to Occupational Health is not always necessary. Where advice has been provided from the employee's GP in the form of a Fit Note i.e. that a phased return to work should be considered, a referral to Occupational Health does not require to be made simply to confirm this advice providing the advice is considered reasonable, consistent with the provisions of this policy and procedure, and can be accommodated.

19.11. Advice and guidance from Human Resources is available in relation to sickness absence matters including referrals to Occupational Health.

## **20. Fit for Work Scotland**

20.1. Fit for Work Scotland is a Scottish Government funded national Occupational Health service, run by NHS24. The service is aimed at small employers who do not have their own Occupational Health provision. The service allows for employers and GP's to refer individuals for advice and guidance on health/wellbeing issues.

20.2. The Council will not normally consider making referrals to Fit for Work Scotland as it has its own Occupational Health provision. Managers may receive requests for information relating to an employee's health and their work or receive a report from Fit for Work Scotland where a GP has made the referral. These requests should wherever possible be responded to as the focus is to enable an individual to return to work.

20.3. Where the recommendations in a report from Fit for Work Scotland are considered reasonable normally these would be implemented; there would be no requirement for a separate referral to the Council Occupational Health service. Please ensure any report received is copied to Human Resources.

20.4. Where there is any conflict of advice from Fit for Work Scotland and the Council's Occupational Health service, the Council will normally follow the advice from the Council's independent Occupational Health service.

## **21. Phased Return to Work**

21.1. As part of a supportive approach to the management of absence, a phased return to work can be put in place for any employee returning to work after long term absence (four weeks or more) to manage the return and aim to ensure that the return is sustainable.

21.2. A phased return to work is a process of gradual re-introduction to the workplace, looking at incremental re-introduction to duties and/or days of work.

21.3. The Council considers that it is reasonable to consider a phased return to work of up to four weeks without the specific approval of Occupational Health. In such circumstances it is normally best for the line manager and employee to simply agree the practical arrangements for this prior to the return to work.

21.4. Any indication that a phased return to work requires to be extended to more than four weeks in duration must be supported by Occupational Health.

21.5. During a phased return to work it is recommended that the line manager maintain regular contact with employee to ensure that the phased return can progress as planned. If this is not the case, then the phased return arrangements may require to be reviewed which may include a referral back to Occupational Health.

21.6. Where an employee has multiple jobs within the Council careful consideration should be given to this as part of any phased return to work. Additionally, managers must also ensure that any employee returning to work from long term sickness absence is not asked to work additional hours, or take on relief hours of work where this could be detrimental to them being able to being able to sustain a return to work.

21.7. Where an employee on a phased return to work is unable to sustain the return to work as planned, and where no other reasonable adjustments can be made to sustain them at work, it is reasonable that the employee be advised that they are not fit to be at work. They would therefore require to be on sickness absence and provide the relevant sickness absence certification. In these circumstances an urgent referral to Occupational Health should be made, ensuring that the full circumstances of the unsuccessful return to work are provided.

21.8. During the first four weeks of a phased return to work, arrangements for payment and accounting for time will be as follows:

- Where the employee works any hours on a normal contractual working day, this day will be classed as and paid as a normal working day.
- Any normal, contractual working day that the employee does no work on will be recorded as sickness absence.



- Sickness absence during a phased return to work will be paid in accordance with occupational sick pay provisions applicable at that time.

21.9. Beyond week four of any phased return to work all contractual hours not worked will be recorded as sickness absence and paid in accordance with occupational sick pay provisions applicable at that time.

21.10. Line managers must ensure that confirmation is sent to Payroll and Human Resources detailing the time to be recorded as sickness absence due to the phased return to work period using the Notification of Phased Return to Work Form at appendix 3. This will ensure that it is recorded as such and the sickness absence would not be counted for trigger point monitoring purposes.

## **22. Redeployment**

22.1. Where an employee's health results in them being unable to carry out the duties of the post, it may be a reasonable adjustment to consider the potential for redeployment to suitable alternative employment within the Council.

22.2. Redeployment should normally only be considered where this is supported by Occupational Health.

22.3. Redeployment on medical/health grounds will be in accordance with the provisions of the Council Redeployment Policy and Procedure.

22.4. Advice and guidance should be sought from Human Resources in all cases where redeployment on health/medical grounds is being considered.

## **23. Short Term Sickness Absence Procedures**

23.1. The disruption caused by frequent short term absence can often be worse than that caused by long term absence as the ability to plan work is much harder. Early intervention in frequent, short term sickness absence is the most likely to produce positive outcomes for both the individual and the Council.

23.2. It is essential that the management of frequent short term absence is applied consistently and fairly. It is entirely reasonable from a management perspective to explore the causes of, impact of and actions that can be taken to minimise future absence with an employee.

23.3. Unless discretion is approved in accordance with section 26 of the procedure, the expectation is that the agreed procedure will be applied and followed in all instances of short term absence.

### **23.4. Return to Work Discussion**

23.4.1. After every period of sickness absence the manager will conduct an informal return to work discussion with the employee. This discussion should take place on the employee's first day back from absence. Where management of staff is remote i.e. not within the same building, then it is acceptable that the return to work discussion be carried out by telephone.

23.4.2. The return to work discussion allows the supervisor/manager to discuss the following points:

- The employee's reason for absence.
- Establish if there could be an underlying medical issue which may result in future absences.
- Explore if there is any support or assistance that could be put in place to support the employee and to minimise future absence. This can include Occupational Health input.

23.4.3. The date of the return to work discussion should be recorded on the Notification of Termination of Absence on Account of Sickness (Pink Form) which would then be forwarded to Payments (appendix 4). This date will then be entered onto the sickness absence record for that employee on the HR/Payroll system.

23.4.4. Further advice and guidance on holding return to work discussions/interviews is included at appendix 5 for reference.

## **23.5. Return to Work Interview**

23.5.1 Following a period of short term absence which has resulted in an employee hitting the trigger point of three or more period of sickness absence in a six month period (see section 6.3), an appropriate manager in accordance with section 25.3 will hold a return to work interview with the employee, rather than a return to work discussion.

23.5.2. A return to work interview should still be held on the first day back from absence. If it is not possible for it to be held the first day back it must be carried out on the next working day/shift i.e. no later than two working days following the return to work.

23.5.3. A return to work interview is still an informal process, however it should be conducted face to face rather than over the telephone, unless this is operationally impossible to achieve i.e. the manager is based in remote office and the employee works on one of the north isles etc.

23.5.4. The focus and structure of the return to work interview is broadly the same as the return to work discussion in that it allows the supervisor/manager to discuss the following points:

- The employee's reason for absence.
- Establish if there may be an underlying medical issue which may result in future absences.
- Explore if there is any support or assistance that could be put in place to support the employee and to minimise future absence.
- Where Occupational Health advice has not already been sought, it is strongly recommended that a referral should be considered at this stage.

23.5.5. Additionally, at a return to work interview the manager should advise the employee that their level of absence has reached the Council trigger point and that, should their level of absence reach the trigger point again in the next six months, the management of their absence would escalate to an Initial Short Term Absence Counselling Meeting.

23.5.6. A return to work interview form (appendix 6) should be completed, signed by both the manager and employee and then forwarded to Human Resources. In addition, the date of the return to work interview should be recorded on the Notification of Termination of Absence on Account of Sickness (Pink Form) which should then be forwarded to Payments (appendix 4).

23.5.7. Further advice and guidance on holding return to work discussions/interviews is included at appendix 5 for reference.

## **23.6. Initial Short Term Absence Counselling Meeting**

23.6.1. Within six months of a return to work interview, where the employee's level of absence has again reached the trigger point of three periods of absence in a six month period, an initial short term absence counselling meeting should be arranged. Assessment of the trigger point being reached again is done on the basis of the six month period prior to the first date of any period of absence. It is therefore possible that further absence of less than three periods following the return to work interview could result in the trigger point being reached.

23.6.2. An initial short term absence counselling meeting is a formal meeting arranged between the employee and an appropriate manager in accordance with section 25.3. An adviser from Human Resources may be present at this stage.

23.6.3. The employee should be provided with at least seven calendar days' written notice of the meeting; although they may agree to meet sooner should they so wish. The employee should be advised of their right to be accompanied to the meeting by a work colleague or a Trade Union Representative/Official employed by a Trade Union. A template letter is available from Human Resources.

23.6.4. The purpose of the short term absence counselling meeting is to ensure that the employee is aware of the seriousness of their poor attendance and to discuss, in a formal setting, ways in which this can be improved. This includes what reasonable support it may be possible to provide or put in place for the employee.

23.6.5. The short term absence counselling meeting is not a disciplinary or performance management process and it is important to stress that all absence should be treated as genuine. Where there is evidence to the contrary this should be addressed through the Council's Disciplinary Policy and Procedure.

23.6.6. The short term absence counselling meeting is in effect focusing on the effect and impact of the absence from the workplace and contractual obligation. The discussions of the reasons for sickness absence allow exploration of options available to support the employee to improve attendance.

23.6.7. The employee should be advised that their levels of sickness absence will be closely monitored for a period of three months and that, within this three month period, they have a target of no more than two periods of sickness absence. The employee should also be clearly advised that where the level of absence exceeds the set target in the close monitoring period, the management of their absence would require a Further Short Term Absence Counselling Meeting to be arranged.

23.6.8. Following the short term absence counselling meeting the manager should ensure that a letter is sent to the employee confirming the discussion, expectation and outcomes. A template letter is available from Human Resources.

23.6.9. Where an employee successfully achieves an acceptable level of sickness absence during the monitoring period, but soon after this lapses back into unacceptable levels of absence, the management of the process can recommence at any level up to and including the initial short term absence counselling meeting. There is no requirement to revert back to either the return to work discussion or the return to work interview. For further guidance on conducting a short term absence counselling meeting refer to appendix 7.

## **23.7. Further Short Term Absence Counselling Meeting**

23.7.1. Where the employee's level of absence has again reached the trigger point of no more than two periods of absence in the initial short term absence monitoring period, a further short term absence counselling meeting should be arranged.

23.7.2. The further short term absence counselling meeting should be arranged between the employee and an appropriate manager in accordance with section 25.3. An adviser from Human Resources will normally be present at this stage.

23.7.3. Current Occupational Health advice should be available for the discussion. A review appointment may require to be arranged for the employee prior to the scheduling of the counselling meeting.

23.7.4. The employee should be provided with at least seven calendar days' written notice of the meeting; although they may agree to meet sooner should they so wish. The employee should be advised of their ability to be accompanied to the meeting by a work colleague or a Trade Union Representative/Official employed by a Trade Union. A template letter is available from Human Resources.

23.7.5. The purpose of the further short term absence counselling meeting is to ensure that the employee is aware of the seriousness of their continued poor attendance and to further discuss, in a formal setting, any ways in which this can be improved. This would include what reasonable support could be provided or put in place for the employee.

23.7.6. The employee should be advised that their levels of sickness absence will be closely monitored for a period of six months and that, within this period, they have a target of no more than three periods of sickness absence. The employee should also be clearly advised that where the level of absence exceeds the set target in the close monitoring period, the management of their absence would require that a health/absence related capability meeting is arranged, and that the outcome of this could be that they be dismissed from employment.

23.7.7. Following the counselling meeting, the manager should ensure that the employee is written to confirming the discussion, expectations and outcomes. A template letter is available from Human Resources.

23.7.8. Where an employee successfully achieves an acceptable level of sickness absence during the further short term absence counselling monitoring period, but then soon after this lapses back into unacceptable levels of absence, the management of the process can recommence at any level up to and including a further short term absence counselling meeting. There is no requirement to revert to return to work discussion, return to work interview or an initial short term absence counselling meeting.

23.7.9. For further guidance on conducting a short term absence counselling meeting refer to appendix 7.

## **23.8. Health/Absence related Capability Meeting**

23.8.1. Where the employee's level of absence has again reached the trigger point of three or more periods of absence in the further short term absence monitoring period, a health/absence related capability meeting should be arranged. This is the final stage in managing persistent short term absence and may result in the employee being dismissed.

23.8.2. The health/absence capability meeting should be chaired by the Executive Director or Head of Service who will have an adviser from Human Resources present. In exceptional circumstances, with the agreement of Human Resources, the authority to Chair such a meeting may be delegated by the relevant Chief Officer to a Service Manager level post (a middle/senior management post which reports directly to a Head of Service).

23.8.3. Current Occupational Health advice should be available for the hearing. A review appointment may require to be arranged for the employee prior to the scheduling of the hearing. It is recommended that Occupational Health advice should have been obtained or reviewed no later than one month prior to the health/absence related capability meeting.

23.8.4. The employee should be provided with at least seven calendar days' written notice of the meeting; although they may agree to meet sooner should they so wish. The employee should be advised of their ability to be accompanied to the meeting by a work colleague or a Trade Union Representative/Official employed by a Trade Union. A template letter is available from Human Resources.

23.8.5. Where the employee is dismissed on the grounds of capability, they will have the right of appeal against the decision. Appeal arrangements are detailed in section 27.

23.8.6. The Executive Director/Head of Service should ensure that a letter is sent to the employee confirming the outcome of meeting within seven days. A template letter is available from Human Resources.

23.8.7. For further guidance on conducting a health/absence related capability meeting refer to appendix 9.

## **24. Long Term Sickness Absence Procedures**

24.1. Research indicates that the best support for employees with long term absence is through early and continuing absence discussions. This procedure has been designed to ensure that managers keep in reasonable contact with absent employees though out the duration of their absence, continue to offer and discuss support mechanisms and advise the employee of the possible consequences of their continued absence.

24.2. The review meeting process outlined is the minimum expectation in respect of formal review and update in respect of any employee who is off sick on a long term basis. This does not preclude more regular reviews where either Occupational Health recommends these or the employee or manager considers these would be beneficial.

24.3. Ongoing contact between the employee and supervisor/line manager as outlined in sections 8 and 9 should be maintained in addition to these review meetings.

24.4. In some cases the prognosis for a long term absence will be self-evident i.e. a broken leg or period of cancer treatment which has an expected duration and recovery period, therefore no immediate intervention is required. Managers should still ensure that regular contact is maintained; however reviews should be pragmatically conducted and may be conducted over the telephone if it is more convenient given the employee's health situation.

24.5. The process for managing long term sickness outlines a process covering approximately nine to twelve months and includes five stages. It may be reasonable in some circumstances that the process does not require to cover all five stages and/or that the timescale for the procedure may be shorter. Examples of the circumstances in which such an approach would be considered reasonable would include:

- Where Occupational Health advice is clear that an employee is permanently unfit for their post.
- Where Occupational Health advice is clear that an employee is not permanently unfit and management consider that there are no other reasonable adjustments (including redeployment) that could be considered to enable an employee to return to work.
- Where an employee has exhausted their occupational sick pay provisions and remains unfit for work with no clear indication of them being fit to return.

## **24.6. Long Term Absence Initial Review Meeting (four weeks)**

24.6.1. The initial review meeting between the employee and an appropriate manager in accordance with section 25.3 should take place as soon as possible once the employee's absence reaches, or is anticipated to be, the long term trigger point of four weeks. An adviser from Human Resources may be present at this stage.

24.6.2. The employee should be provided with at least seven calendar days' written notice of the meeting, although they can agree to meet sooner should they so wish. The employee should be advised of their right to be accompanied to the meeting by a work colleague or a Trade Union Representative/Official employed by a Trade Union. A template letter is available from Human Resources.

24.6.3. The initial review meeting is designed to allow the supervisor/line manager an opportunity to gain a better understanding of the reasons for an employee's absence, when the employee is expected to return to work and any reasonable support that the Council can offer to assist the employee in returning to work.

24.6.4. The initial absence review meeting should also consider any advice and guidance received from Occupational Health. It is recommended that, if a referral to Occupational Health has not already been arranged, this should be put in place following the initial absence review.

24.6.5. The supervisor/manager should ensure that a letter is sent out to the employee following the initial absence review meeting reflecting the discussions, any agreed actions and the way forward. A template letter is available from Human Resources.

24.6.6. Further guidance on holding a long term absence review meeting is included at appendix 8 for reference and is available from Human Resources.

## **24.7. Long Term Absence Review Meeting (three months)**

24.7.1. Where an individual's long term absence reaches three months, a further review meeting should be arranged between an appropriate manager in accordance with section 25.3 and the employee. An adviser from Human Resources may be present at this stage.

24.7.2. The procedure for arranging the absence review meeting and the ability to be accompanied at the meeting are as outlined in 24.6.2 above.

24.7.3. Although the exact detail of the discussion will be dependent on the nature of the health conditions and specific circumstances of each case, the review meeting should consider the following:

- Previous discussions with the employee in respect of their absence.
- An update on the current health situation from the employee.
- Confirmation of the current position in respect of Occupational Sick Pay to an employee, i.e. date of move to half pay and/or expiry of occupational sick pay.
- Review of any advice and recommendations from Occupational Health.
- Anticipated timescale for the employee to be able to return to work.
- Any reasonable adjustments that may be beneficial to supporting the employee to return to work and/or minimise future absence.
- Where it is unlikely that an employee will be medically fit to return to this post, or that reasonable adjustments are not sufficient to enable a return to the post, whether it would be beneficial to consider redeployment options.
- Where Occupational Health, or the employee's GP, indicate that retirement on the grounds of ill health should be considered, take forward these discussions (see section 24.10).

24.7.4. The supervisor/manager should ensure that a letter is sent out to the employee following the absence review meeting reflecting the discussion, any agreed actions and the way forward. A template letter is available from Human Resources.

24.7.5. Further guidance on holding a long term absence review meeting is included at appendix 8 for reference and is available from Human Resources.

## **24.8. Long Term Absence Review Meeting (six months)**

24.8.1. Where an individual's long term absence reaches six months a further review meeting should be arranged between an appropriate manager and the employee, in accordance with section 25.3. An adviser from Human Resources should be present at this stage.

24.8.2. The procedure for arranging the absence review meeting, and the ability to be accompanied at the meeting, are as outlined in 24.6.2 above.

24.8.3. Although the exact detail of the discussion will be dependent on the nature of the health condition and the specific circumstances of each case, the review meeting should consider the following:

- Previous discussions with the employee in respect of their absence.
- An update on the current health situation from the employee.
- Confirmation of the current position in respect of Occupational Sick Pay to an employee, i.e. date of move to half pay and/or expiry of occupational sick pay.
- Review of any advice and recommendations from Occupational Health.
- Anticipated timescale for the employee to be able to return to work.
- Any reasonable adjustments that may be beneficial to supporting the employee to return to work and/or minimise future absence.
- Where it is unlikely that an employee will be medically fit to return to the post, or that reasonable adjustments are not sufficient to enable a return to the, whether it would be beneficial to consider redeployment options.
- Where Occupational Health, or the employee's GP, indicate that retirement on the grounds of ill health should be considered take forward these discussions (see section 23.10).

24.8.4. The manager should ensure that a letter is sent to the employee following the absence review meeting reflecting the discussion, any agreed actions and the way forward. A template letter is available from Human Resources.

24.8.5. Further guidance on holding a long term absence review meeting is included at appendix 8 for reference and is available from Human Resources.

## **24.9. Long Term Absence Review Meeting (nine months)**

24.9.1. Where an individual's long term absence reaches nine months a further review meeting should be arranged between the employee and an appropriate manager in accordance with section 25.3. An adviser from Human Resources should be present at this stage in the process.

24.9.2. The procedure for arranging the long term absence review meeting and the ability to be accompanied at the meeting are as outlined in 24.6.2 above.

24.9.3. Although the exact detail of the discussion will be dependent on the nature of the health condition and specific circumstances of each case, the review meeting should consider the following:

- Previous discussions with the employee in respect of their absence.
- An update on the current health situation from the employee.
- Confirmation of the current position in respect of Occupational Sick Pay to an employee, i.e. date of move to half pay and/or expiry of occupational sick pay.
- Review of any advice and recommendations from Occupational Health.
- Anticipated timescale for the employee to be able to return to work.
- Any reasonable adjustments that may be beneficial to supporting the employee to return to work and/or minimise future absence.
- Where it is unlikely that an employee will be medically fit to return to the post, or that reasonable adjustments are not sufficient to enable a return to the post, whether it would be beneficial to consider redeployment options.
- Where Occupational Health, or the employee's GP, indicate that retirement on the grounds of ill health should be considered take forward these discussions (see section 24.10).

24.9.4. The employee should also be clearly advised that, where their absence continues and there is no prospect of a return to work in the next three months, the management of their absence would escalate to the next stage and that the outcome of this could be that they be dismissed from employment.

24.9.5. The manager should ensure that a letter is sent out to the employee following the absence review meeting reflecting the discussion, any agreed actions and the way forward. A template letter is available from Human Resources.

24.9.6. Further guidance on holding a long term absence review meeting is included at appendix 8 for reference and is available from Human Resources.



## **24.10. Termination of Employment due to Long Term Sickness**

### **24.10.1. Retirement on the Grounds of Permanent Ill Health**

24.10.1.1. Where it is clear that an employee's illness/health means that it is unlikely that they will be able to return to their role, and that the Council has no other comparable employment for which they would be fit to undertake, a referral should be made to Occupational Health to seek confirmation of whether they meet the requirements for retirement on the grounds of ill health.

24.10.1.2. Two independent Occupational Health Physicians are required to agree that the criteria for retirement on the grounds of ill health are met.

24.10.1.3. Where retirement on the grounds of ill health is approved, the Executive Director/Head of Service should arrange to meet with the employee, along with Human Resources.

24.10.1.4. The date of this meeting will be considered the employee's last date of work prior to ill health retirement.

24.10.1.5. There is no requirement for, nor will it be considered reasonable for an employee who satisfies the requirements for retirement on the grounds of ill health, to wait until their occupational sick pay is exhausted before being retired on ill health grounds.

24.10.1.6. In ill health retirement an employee would be paid in lieu of contractual notice and for any outstanding annual leave entitlement.

24.10.1.7. Ill health retirement is a termination of employment, and the employee would have a right of appeal against the decision in accordance with section 27.

24.10.1.8. Advice and guidance should be sought in all cases where retirement on the grounds of ill health is a potential outcome. Guidance for managers in respect of the ill health retirement process is included in appendix 9.

#### **For Teachers and other employees covered by SNCT Terms and Conditions**

Retirement on the Grounds of Ill Health for Teachers and other employees covered by SNCT Conditions of Service is in accordance with section 24.10.1, other than whereby the Scottish Public Pensions Agency rules in respect of the Scottish Teachers Pension Scheme 2015 vary this.

### **24.10.2. Health/Absence related Capability Meeting**

24.10.2.1. Where retirement on the grounds of ill health is not supported, and it is clear that there are no other reasonable adjustments (including redeployment) that will enable an employee to return to their role within a reasonable timeframe, then a health/absence Capability Meeting should be convened.

24.10.2.2. The health/absence related capability meeting should be chaired by the Executive Director or Head of Service who will have an adviser from Human Resources present. In exceptional circumstances, with the agreement of Human Resources, the authority to Chair such a meeting may be delegated by the relevant Chief Officer to a Service Manager level post (a middle/senior management post which reports directly to a Head of Service).

24.10.2.3. The employee should be provided with at least seven calendar days' written notice of the meeting, although they may agree to meet sooner should they so wish. The employee should be advised of their ability to be accompanied to the meeting by a work colleague or a Trade Union Representative/Official employed by a Trade Union. A template letter is available from Human Resources.

24.10.2.4. Where the employee is dismissed on the grounds of capability, they will have the right of appeal against the decision. Appeal arrangements are detailed in section 27.

24.10.2.5. The Executive Director/Head of Service should ensure that a letter is sent to the employee confirming the outcome of meeting within seven days. A template letter is available from Human Resources.

24.10.2.6. For further guidance on conducting a health/absence capability meeting; refer to appendix 10.

## **25. Staged Approach to Management of Absence**

25.1. At the early, informal stages of both short and long term absence it is considered best to engage with an employee in respect of their sickness absence at a front line/supervisory level. This will help in keeping what can occasionally feel like a difficult process to an employee who is off sick as low key as possible in the first instance.

25.2. Similarly, where an employee's levels of persistent short term absence or length of long term absence give a greater degree of concern for the Council, it is reasonable that the manager who deals with the later stages of the process is more senior to aid in the emphasis of the concern and the impact that the absence is having.

25.3. Whilst not being able to account for every specific instance, the tables below outline the general expectation as to the stage in the absence process and the level of manager who would normally deal with this.

**Table 25.3a – Short Term Absence Management Responsibility Level (General)**

<b>Stage</b>	<b>Responsible Manager</b>
Return to Work Discussion	Supervisor or line manager
Return to Work Interview	Supervisor or line manager
Initial Counselling Meeting	Supervisor or line manager
Further Counselling Meeting	Line manager or more senior manager
Absence/Health related Capability Meeting*	Executive Director or Head of Service

**Table 25.3b – Long Term Absence Management Responsibility Level (General)**

<b>Stage</b>	<b>Responsible Manager</b>
Return to Work Interview	Supervisor or Line Manager
Initial Long Term Absence Review Meeting (4 weeks)	Supervisor or Line Manager
Long Term Absence Review Meeting (3 months)	Line Manager
Long Term Absence Review Meeting (6 months)	Line Manager or other more senior Manager
Long Term Absence Review Meeting (9 months)	Service Manager
Absence or Health related Capability Meeting *	Head of Service or Executive Director
Ill Health Retirement Meeting*	Head of Service or Executive Director

**Table 25.3c – Short Term Absence Management Responsibility Level (Teachers)**

<b>Stage</b>	<b>Responsible Manager</b>
Return to Work Discussion	Line Manager – can be Principal Teacher, Depute Head or Head Teacher
Return to Work Interview	Line Manager – can be Principal Teacher, Depute Head or Head Teacher
Initial Counselling Meeting	Head Teacher or Depute
Further Counselling Meeting	Head Teacher or Service Improvement Officer
Absence/Health related Capability Meeting*	Executive Director or Head of Service

**Table 25.3b – Long Term Absence Management Responsibility Level (Teachers)**

<b>Stage</b>	<b>Responsible Manager</b>
Return to Work Interview	Line Manager – can be Principal Teacher, Depute Head or Head Teacher
Initial Long Term Absence Review Meeting (4 weeks)	Line Manager – can be Principal Teacher, Depute Head or Head Teacher
Long Term Absence Review Meeting (3 months)	Head Teacher or Depute
Long Term Absence Review Meeting (6 months)	Head Teacher
Long Term Absence Review Meeting (9 months)	Service Improvement Officer
Absence or Health related Capability Meeting *	Head of Service or Executive Director
Ill Health Retirement Meeting*	Head of Service or Executive Director

\*may be delegated with agreement of Human Resources to a Service Management level post (refer to section 23.8.2)

## **26. Discretion**

26.1. The Council Absence Management Policy and Procedure outline the levels of absence that the Council considers to be concerning and/or at which there are expected management interventions. However, the Council also recognises that no policy can fully account for every individual instance or circumstance fully.

26.2. To that end, Line Managers/Head Teachers will have the ability to seek authorisation from the relevant Head of Service or Executive Director for discretion to be taken into account in a particular case. In addition, there are some automatic discretions built into the Council procedures.

26.3. The following automatic discretions are built into the Council absence management procedures and therefore no application for discretion would require to be made, as long as it is clear on the self/medical certification that the absence is as a result of one of the following circumstances:

- Any absence related to pregnancy or maternity, where this is declared on the self-certificate and/or medical certificate, will not be counted for the purposes of Council trigger point reporting.
- Any sickness absence related to an agreed phased return to work procedure, where this is notified to Payroll and Human Resources at the time of agreeing the phased return to work will not be counted for the purposes of Council trigger point monitoring reporting.
- In any instance where an employee's illness is terminal, a compassionate approach to management of sickness will be taken. However, there is still a requirement that this is reasonably managed in accordance with the long term absence procedures. Advice from Human Resources should always be sought in these circumstances.
- Any sickness absence occurring as a direct result of admission to hospital from an out-patient or in-patient preventative medical appointment will not be counted for the purposes of Council trigger point monitoring.
- Any sickness absence resulting from gender reassignment surgery will not be counted for the purposes of Council trigger point monitoring.
- For care home staff, any sickness absence occurring as a result of an outbreak of norovirus in care homes which required notification to the NHS Health Protection Team (HPT) and the Care Inspectorate and which requires a member of staff to remain off work until 48 hours after their last symptoms shall not be counted for the purposes of Council short term trigger point monitoring.

26.4. The specific units/service areas covered under 26.3 (f) are St. Rognvald's House, St. Peter's House, Smiddybrae House; Very Sheltered and Extra Care Housing (Eunson Kloss, Braeburn and Kalisgarth), Glaitness, Aurrida House, Residential Childcare Unit(s), respite establishments for Adults and Young People and Papdale Halls of Residence.

26.5. Where a Line Manager/Head Teacher believe that an absence case would warrant consideration of discretion being applied, they must complete a Management Discretion Request Form (appendix 11) setting out the reason why they feel discretion should be applied at that time in that particular case.

26.6. Discretion cannot be requested in respect of the following aspects of the management of sickness absence:

- An application for discretion to be applied is only an application in respect of a specific stage in the process; an application cannot be made for blanket discretion to apply across the management of an entire absence case.
- Discretion cannot be made to delay the management of absence in any case for more than a period of three months, unless there are exceptional circumstances and this is agreed with Human Resources.
- No more than one application for discretion can be submitted in respect of the same stage in the process of a specific period of absence for any employee.
- No discretion can be applied in respect of the need to refer an employee to Occupational Health as part of the absence management procedure.
- No discretion can be applied in respect of Return to Work Discussions and Return to Work Interviews; these are mandatory parts of the procedure.

- There can be no discretion where Occupational Health advice supports that an employee is permanently unfit for their post.

26.7. When a manager submits a request for discretion they should ensure that they make reference to and give consideration to a range of information including:

- The employee's sickness absence record over the past three years.
- The specific reason for the absence i.e. was it due to chronic illness/disease or was it as a result of undergoing a surgical procedure requiring hospitalisation which had a specified/expected recovery period.
- Was the absence covered under the disability provisions of the Equality Act 2010? If so, the specific case would require to be put as to how the application of discretion in any instance would be considered a reasonable adjustment.
- Any other relevant factors that the line manager/head teacher considers would support the application for applying discretion in the particular case.

26.8. It should be noted that it is a line management decision as to whether or not a request for discretion should be made. There is no ability for an employee or their trade union representative to submit a request for consideration of discretion.

26.9. Where the Executive Director or Head of Service approves an application of discretion the completed and authorised form must be submitted to Human Resources. This will then be saved as part of the ongoing absence management records for that employee.

26.10. Unless discretion is approved in a specific case, there is an expectation that the management of absence will progress as outlined in the policy, in accordance with the stated timescales.

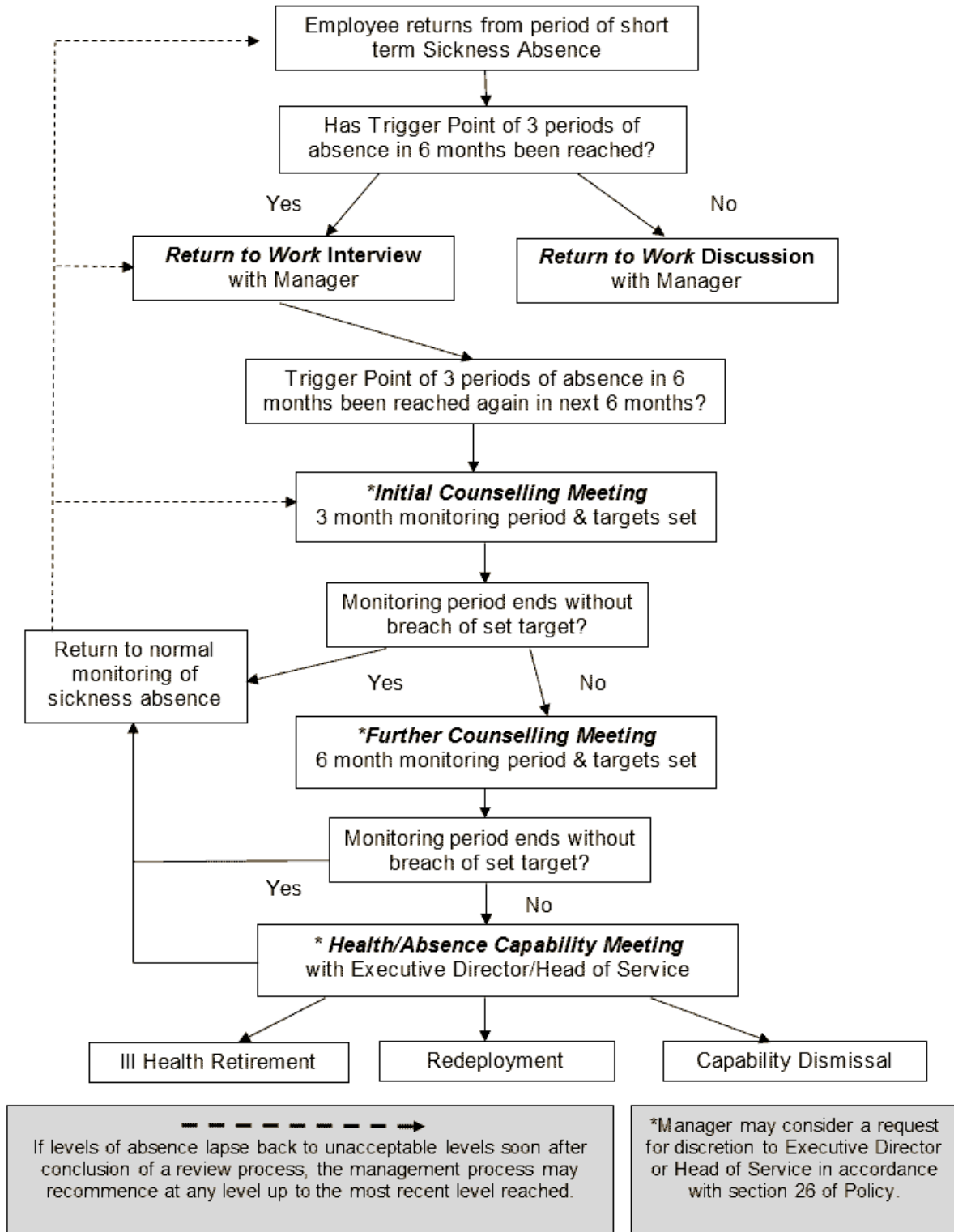
## **27. Right of Appeal**

27.1. Any employee who has their employment with the Council terminated under the Sickness Absence Policy and Procedure, either as a result of retirement on the grounds of ill health or following an Absence/Health related capability meeting, would have the right of appeal to the Staff Appeals Sub-committee of the Council, should they so wish. Appeal arrangements would be confirmed in writing as part of the outcome of these procedures.

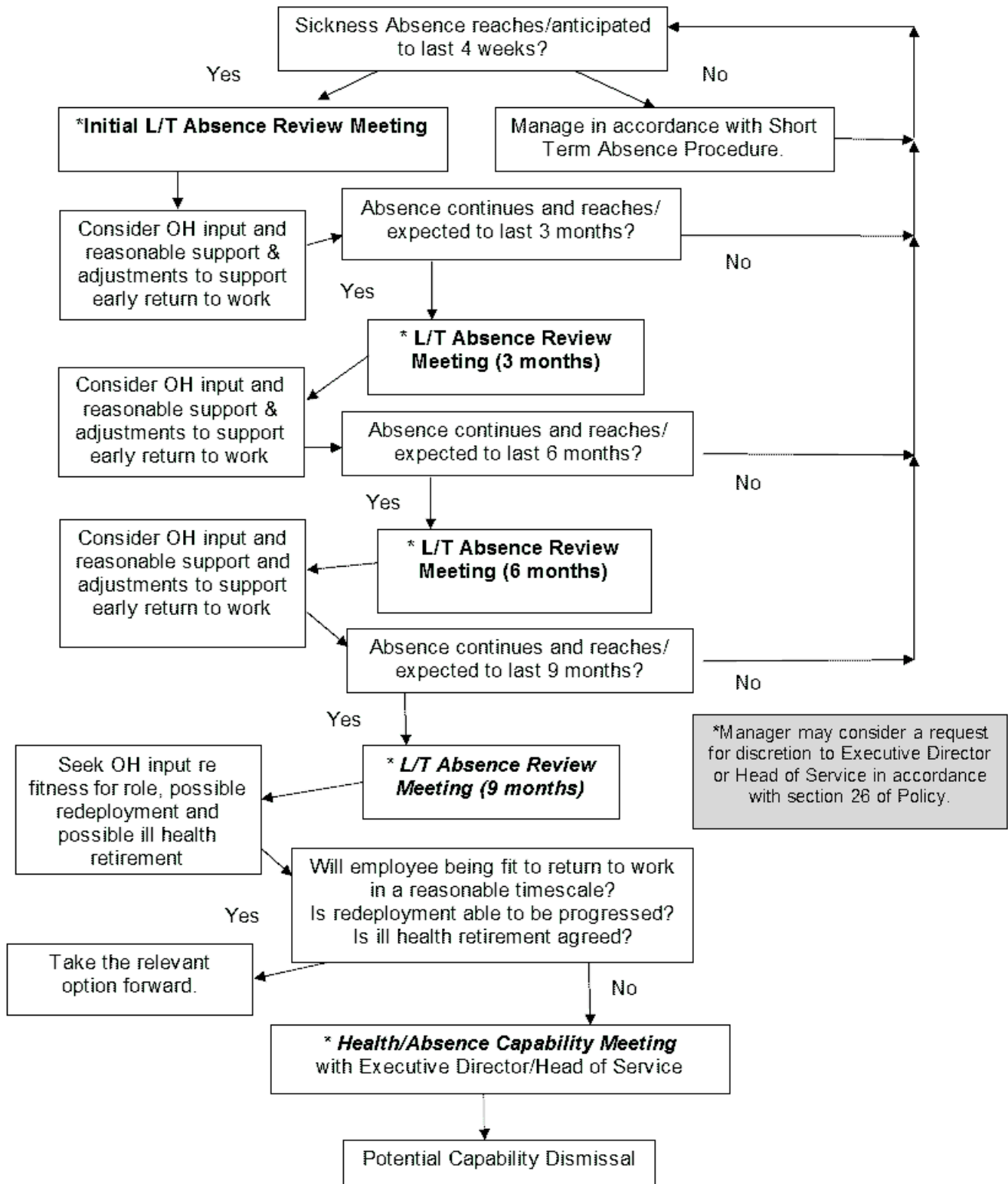
27.2. There is no formal right of appeal against action/process in accordance with any other stages of this procedure, including where an application for discretion to be applied is either not made or is not granted.

27.3. Where an employee believes that the procedure has not been followed fairly in their situation they would have recourse to the Council's Grievance procedures.

## 28. Short Term Sickness Absence Flowchart



## 29. Long Term Sickness Absence Flowchart





# Appendix 1 – Council Occupational Sick Pay Schemes Summary.

## 1. SJC/Single Status Employees, Orkney College Academic Staff and Chief Officials.

<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 26 weeks	Nil	Nil
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

## 2. Teachers and other employees covered by SNCT Conditions of Service.

<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

NB. Casual, relief, supply staff whose working pattern results in the relevant period of continuous service will be entitled to the payment of occupational sick pay. This is subject to satisfying the provisions of this policy in respect of reporting of sickness absence (Section 8), maintaining contact during sickness absence (section 9) and certification of sickness absence (Section 10) as for all Council employees.

## Appendix 2 – Guidance on Reasonable Adjustments.

### Introduction.

This guide is intended to help you, as a manager, understand what a reasonable adjustment is and how to implement adjustments when recommended by Occupational Health, by an employee's GP or where requested by the individual employee. This is likely as a result of a disability or period of illness. Recommendations may also come from Fit to Work (Scotland) the Government funded national Occupational Health Service.

Under the Equality Act 2010 a disability is defined as:

“A person has a disability for the purposes of the Act if he or she has a physical or mental impairment and the impairment has a substantial and long term adverse effect on his or her ability to carry out normal day-to-day activities”

Points to note in respect of the definition of a disability:

- Normal day-to-day activities are considered to be tasks such as standing, sitting, walking, shopping, reading, writing, driving, getting washed and dressed etc. not any specific duties and responsibilities of their post.
- Long term is considered to mean has lasted for/is likely to last for 12 months or more or is likely to last for the for rest of the person's life.

A disability can arise from a wide range of impairments which can be:

- Sensory impairments affecting sight or hearing.
- Impairments with fluctuating or recurring effects such as rheumatoid arthritis, ME, chronic fatigue syndrome, fibromyalgia, depression and epilepsy.
- Progressive such as motor neurone disease, muscular dystrophy, forms of dementia and lupus.
- Organ specific, including respiratory conditions, such as asthma and cardiovascular diseases, including thrombosis, stroke and heart disease.
- Developmental, such as autistic spectrum disorders, dyslexia and dyspraxia.
- Mental health conditions and mental illnesses, such as depression, schizophrenia, eating disorders, bipolar affective disorders, obsessive compulsive disorders, as well as personality disorders and some self-harming behaviours.
- Produced by injury to the body or brain.
- From the point of diagnosis of cancer, MS or HIV an individual is considered to have a disability under the Act.

This is not an exhaustive list but gives an indication of the types of conditions covered in the Act.

There are a number of issues/conditions that are specifically excluded from the definition of a disability under the Act, these are:

- Addiction to, or dependency on, alcohol, nicotine, or any other substance (other than in consequence of the substance being medically prescribed); it should be noted that, although they would not meet the definition on the basis of their addiction, they may still meet it as a result of the impact/effects of the addiction i.e. liver damage or depression.
- The condition known as seasonal allergic rhinitis (hay fever), except where it aggravates the effect of another condition.
- Tendency to set fires.
- Tendency to steal.
- Tendency to physical or sexual abuse of other persons.
- Exhibitionism.
- Voyeurism.
- Disfigurements which consist of a tattoo (which has not been removed), non-medical body piercing, or something attached though such piercing.

### **How do I know someone is disabled under the act?**

It may be relatively straightforward to determine that an employee with a diagnosed condition is likely to meet the definition of disability under the Act, but on occasion it may not.

It is the responsibility of the employer to determine, based on all of the available information and advice, whether or not they believe an individual has a disability as defined under the Act.

Advice and guidance is always available from Occupational Health. However, it is not the role of Occupational Health to make the decision as to whether an individual is disabled under the Act or not, this rests with the employer. Occupational Health referrals must not ask whether an individual is disabled under the Act.

The Council Occupational Health referral form does have the following standard questions which are aimed at providing useful advice to managers to aid them in deciding whether an employee would satisfy the definition of disabled under the Act:

- Does the employee have a mental/physical impairment which affects them undertaking normal day to day activities i.e. standing, sitting, walking, shopping, reading, writing, driving, getting washed and dressed etc. rather than any specific duties and responsibilities of their post?
- Does the employee have a curable/incurable condition which results in long term physical, mental or psychological impairment to their ability to participate in working life?
- Where there is a mental/physical impairment affecting the employee undertaking day to day activities, is the effect substantial, i.e. more than minor or trivial?
- Has any substantial effect been or likely to be long term i.e. has lasted for at least 12 months; is likely to last for at least 12 months; is likely to last for the rest of the life of the employee; or where the total period of time that it is likely to last from the first time of onset is likely to be at least 12 months?

It is recommended that advice and guidance is sought from Human Resources in respect of any situation where there is doubt or disagreement as to whether an individual would satisfy the definition of disability under the Act.

Further advice and guidance is also available in the form of the Government Office for Disability Issues document *Guidance on matters to be taken into account in determining questions relating to the definition of disability* (link below)

<https://www.gov.uk/government/publications/disability-equality-act-2010-guidance-on-matters-to-be-taken-into-account-in-determining-questions-relating-to-the-definition-of-disability>

As a result of an employee's disability or illness it may be necessary to make an adjustment to support them with their condition.

### **What is a reasonable adjustment?**

The Equality Act requires that as an employer the Council has a duty to make reasonable adjustments.

The duty to make reasonable adjustments aims to make sure that, as far as is reasonable, an employee with a disability has the same access to everything that is involved in getting, doing and keeping a job as a person who does not have a disability. The adjustment is aimed, as far as possible, to ensure that employees with a disability are not seriously disadvantaged when doing their jobs.

When the duty arises, the employer is under a positive and proactive duty to take steps to remove, reduce or prevent the obstacles a disabled employee faces. The employer is required to make adjustments when they are aware - or should reasonably be aware – that an employee has a disability.

Many of the adjustments an employer can make may not be particularly expensive and they are not required to do more than what is reasonable for them to do. What is reasonable for them to do will depend amongst other factors, on the size and nature of the organisation. As a large organisation, Orkney Islands Council is generally better placed to make larger adjustments than a small business given the greater access to resources.

If an employer does nothing, and an employee with a disability can show that there were barriers and the employer should have identified reasonable adjustments, they can bring a claim against the employer at an Employment Tribunal. The organisation may be ordered to pay them compensation as well as making the reasonable adjustments.

A reasonable adjustment may be made to adapt a post that an employee with a disability may not otherwise be able to carry out. For example, the provision of specialist equipment, access adjustments for people who use wheelchairs or a change to an employee's duties which still enables them to fulfil their role but in a different manner. Reasonable adjustments may also be required within a job role, for example adjusting an employee's schedule if they can no longer work long days.

An adjustment may be required in the short or long term depending on the nature of the employee's disability or illness. A manager, in conjunction with Occupational Health and Human Resources, has to decide what reasonable adjustments can be made and how these may impact on service delivery etc. While an employee may contribute to suggestions regarding the adjustments, it is the line manager's responsibility to identify adjustments and make a decision as to their reasonableness.

The following is not an exhaustive list but may need to be considered when looking at the types of adjustments which need to be made:

- Rearranging seating or furniture in an office.
- Adjustments to systems/processes in place i.e. colour coding a filing system.
- Allowing extra time for completing work tasks or travel time between meetings.
- Ensuring appropriate forms of communication, i.e. large print documents.
- Specialist or adapted equipment.
- A phased return to work may be recommended by the employee's GP or Occupational Health (see section 21).
- The employee's GP or Occupational Health may recommend that certain duties are not carried out, i.e. lone working or night shifts.
- An employee may have to reduce their working hours for a temporary period or on a permanent basis.
- An employee may make a request to adopt a different working pattern.
- Temporary light duties.
- Temporary relocation of work.
- Enabling an individual to complete parts of their role that they are able to and taking on more of this/other responsibilities, and colleagues taking on the work they are unable to complete.
- Provision of specialist support, i.e. a reader, interpreter or signer.
- Holding an awareness raising session in relation to a specific disability with work colleagues (but only with the specific agreement of the employee).

Employees may be able to access funding from the scheme 'Access to Work' which can help contribute towards costs for things such as transportation to and from work, additional support at work and equipment. Orkney Islands Council would be expected to contribute the initial £1,000 and 20% up to £10,000 of the costs of any adjustments. It is the employee's responsibility to apply for Access to Work and up to date information can be found on the following website:

[http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/DG\\_4000347](http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/DG_4000347)

It is important that, if the adjustment cannot be accommodated, there is a clear justification for this which is recorded. A number of factors need to be considered when deciding not to make an adjustment. Should a manager feel they are not in a position to make a recommended adjustment they should discuss this with Human Resources prior to discussing it with the employee.

The following is not an exhaustive list, but should assist when considered the feasibility of any adjustment:

- How practicable is it to make the adjustment?

- The financial implications of making the adjustment, as an organisation, can the Council afford to make the adjustment.
- The availability of financial help, how accessible is the finance to make the adjustment?
- The size of the organisation.
- What (if any) impact would this have on other employees/team members or colleagues.
- Will there be any health and safety implications for the individual or other employees/team members or colleagues?

The need to make reasonable adjustments can apply to the working arrangement or any physical aspects of the workplace.

It is a requirement to ensure that any adjustment made continues being relevant, so adjustments should be reviewed periodically. As a two ticks employer the Council has committed to review reasonable adjustments in place on an annual basis, however more frequent review where appropriate is strongly recommended.

### Appendix 3 – Phased Return to Work Arrangements Form.

<b>Employee Name</b>			
<b>Service</b>			
<b>Job Title</b>			
<b>Work Location</b>			
<b>Date of Birth</b>		<b>Payroll Number</b>	

<b>Week Commencing</b>				<b>Week of Phased Return</b>				
<b>Normal Working Pattern</b>				<b>Adjusted Working Pattern</b>				
<b>Day</b>	<b>Start Time</b>	<b>End Time</b>	<b>Hours Worked</b>	<b>Day</b>	<b>Start Time</b>	<b>End Time</b>	<b>Hours (Normal)</b>	<b>Hours (Sick)</b>
Sun				Sun				
Mon				Mon				
Tue				Tue				
Wed				Wed				
Thurs				Thurs				
Fri				Fri				
Sat				Sat				
<b>Contracted Weekly Hours</b>				<b>Total Hours</b>				

<b>Week Commencing</b>				<b>Week of Phased Return</b>				
<b>Normal Working Pattern</b>				<b>Adjusted Working Pattern</b>				
<b>Day</b>	<b>Start Time</b>	<b>End Time</b>	<b>Hours Worked</b>	<b>Day</b>	<b>Start Time</b>	<b>End Time</b>	<b>Hours (Normal)</b>	<b>Hours (Sick)</b>
Sun				Sun				
Mon				Mon				
Tue				Tue				
Wed				Wed				
Thurs				Thurs				
Fri				Fri				
Sat				Sat				
<b>Contracted Weekly Hours</b>				<b>Total Hours</b>				

Week Commencing				Week of Phased Return				
Normal Working Pattern				Adjusted Working Pattern				
Day	Start Time	End Time	Hours Worked	Day	Start Time	End Time	Hours (Normal)	Hours (Sick)
Sun				Sun				
Mon				Mon				
Tue				Tue				
Wed				Wed				
Thurs				Thurs				
Fri				Fri				
Sat				Sat				
Contracted Weekly Hours				Total Hours				

Week Commencing				Week of Phased Return				
Normal Working Pattern				Adjusted Working Pattern				
Day	Start Time	End Time	Hours Worked	Day	Start Time	End Time	Hours (Normal)	Hours (Sick)
Sun				Sun				
Mon				Mon				
Tue				Tue				
Wed				Wed				
Thurs				Thurs				
Fri				Fri				
Sat				Sat				
Contracted Weekly Hours				Total Hours				

Payment weeks 1 – 4 of Phased Return	Payment beyond week 4 of Phased Return
Where any hours are worked on a normal contractual working day, this day will be paid as normal. Any normal contractual working day that the employee does no work on will be recorded and paid as sickness absence in accordance with occupational sick pay provisions applicable at that time.	A phased return to work lasting more than 4 weeks requires Occupational Health support. Beyond week 4 of any phased return to work all contracted hours not worked will be recorded and paid as sickness absence in accordance with occupational sick pay provisions applicable at that time.

Manager Signature

Date

**Please return the completed for to Payroll with a copy to Human Resources**



# Appendix 4 – Notification of Termination of Sickness Absence.

## ORKNEY ISLANDS COUNCIL

### NOTIFICATION OF TERMINATION OF ABSENCE ON ACCOUNT OF SICKNESS

Please complete part 1 of this form at the same time as you complete the blue sick form. Please complete part 2 of this form when the employee returns to work. Please complete part 3 of this form following the return to work discussion/interview which should be held as soon as possible after the period of absence. Please send the completed form to the Payroll Section as soon as possible thereafter.

#### PART 1 - NOTIFICATION OF ABSENCE

Service : \_\_\_\_\_ Section: \_\_\_\_\_

Name of Employee: \_\_\_\_\_ Designation: \_\_\_\_\_

Date last worked: 

--	--	--

  
Day Month Year

Time finished work: 

--	--

  
Use 24 hour clock

First day of sickness: 

--	--	--

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Manager/Head Teacher

#### PART 2 - NOTIFICATION OF RETURN TO WORK

Last day of sickness: 

--	--	--

  
Day Month Year

Date of return to work: 

--	--	--

 Time started work: 

--	--

  
Use 24 hour clock

#### PART 3 – MANAGEMENT OF RETURN TO WORK

Date Return to Work Discussion Held: 

--	--	--

  
Day Month Year

Or where the employee's absence levels have reached/exceeded the short term trigger point of 3 periods in 6 months

Date Return to Work Interview Held: 

--	--	--

  
Day Month Year

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Manager/Head Teacher

**Remember to send the self-certification form (the yellow form) and/or Doctor's Medical Certificate submitted by the employee to the Payroll Section without delay. Failure to do so may jeopardise the employee's entitlements under the Statutory Sick Pay Regulations.**

## Appendix 5 – Return to Work Discussion Guidance for Managers

Orkney Islands Council's Sickness Absence Policy and Procedure require that managers must conduct a return to work discussion with all employees on their return to work after every period of sickness absence, regardless of length of absence or their current/historic sickness absence.

Tables 25.3a - d of the Sickness Absence Policy identify the relevant managers that may conduct a return to work discussion. It is recommended that these should be conducted by the immediate manager in an effort to keep the process as informal and supportive as possible in the early stages.

For example, within a Residential Unit in Orkney Health and Care it would be acceptable practice that a Senior Social Care Worker would conduct the return to work discussion, or within a Secondary School that the relevant Principal Teacher would conduct the return to work discussion.

It is preferable that the return to work discussion takes place on a face to face basis and should take place on the first day back from sickness absence. However, where the management of staff is remote (not within the same building e.g. Cleaning and Home Care) it is acceptable that the return to work discussion is carried out via telephone where necessary.

It is important that dedicated time is set aside by managers to conduct the return to work discussion; it should not be something that is done 'in passing' or 'on the hoof'.

The return to work discussion should take place in a private location with no interruptions. If the discussion is being held in the manager's office their phone should be diverted.

The purpose of this informal chat is to:

- Establish the wellbeing of the employee.
- Establish if there are any possible underlying reasons for the absence.
- Establish if there are any supports which could be put into place to help minimise future sickness absence including possible referral to Occupational Health.
- Update the employee on any key developments within their role/workplace that occurred whilst they were off (if applicable).

When conducting the return to work discussion the line manager should indicate their concern and interest in the welfare of the employee. They should try to explore any underlying reasons for the absence, ways of improving attendance and determine if there is a need for a referral to Occupational Health.

Where there is a potential pattern of sickness absence emerging the line manager should explore this with the employee.

The manager should also flag up to the employee if further sickness absence would result in the Council Sickness Absence Trigger Point of three periods of absence within a six month period being reached.

Although no formal record of a return to work discussion is required, it is recommended that the manager note key points of the discussion and any issues raised and agreements reached e.g. referral to Occupational Health to be made.

The manager must also ensure that the date of the return to work discussion should be recorded on the Notification of Termination of Absence on Account of Sickness (Pink Form) which should then be forwarded to Payments (appendix 4).

Upon receipt of this, the date will then be entered onto the sickness absence record for that employee on the HR/Payroll system.

Having a date of a return to work discussion recorded and entered against each period of absence that an employee has (where trigger point has not been reached) will be considered to note appropriate management action has been taken in accordance with the Council Sickness Absence Policy and Procedure for Performance Reporting purposes.

There is no ability to seek discretion for a return to work discussion not to take place.

## Appendix 6 – Return to Work Interview Form.



Please refer to the Sickness Absence Policy and Procedure for further guidance and advice can also be sought from Human Resources.

Employee Name			
Employee Job Title			
Work Location			
Current Absence First Date		Current Absence Last Date	
Reason for Current Absence			
Total No of Calendar Days Absence			

Previous absences in the last 12 months:

From	To	No of Days	Reason for Absence

Discussion points (*please note not all these points may be relevant to every situation*):

Welcome the employee back.	
Confirm the reason(s) for absences.	
Give the employee the opportunity to raise any concerns or questions they might have, or to bring any relevant health matters to the line manager's attention.	
State any concerns and ask questions (including highlighting the impact of the absences on colleagues and the Council)	
Discuss any additional measures that may be required to facilitate the employee's return to work, or to support them to remain in work, taking account of any medical advice received from the employee's GP or from Occupational Health.	
If an employee's absence is due to work related stress has there been a discussion to seek to understand the reasons behind this and where possible seek to agree reasonable actions to seek to minimise or remove the stressors.	

Discuss any work related issues which may be causing ill health and ensure any actions are recorded for example, if advice requires to be sought from Human Resources, changes to working pattern etc.	
<p>Determine if there is any need for action or support such as counselling, or Occupational Health referral where advice can be sought for example on:</p> <ul style="list-style-type: none"> <li>• Whether the absence is attributable to an underlying health condition</li> <li>• whether the current cause of the absence is a condition that has caused other absences, or may do so in the future;</li> <li>• the prognosis for any such condition;</li> <li>• whether the condition is likely to have been caused or made worse by work activity and</li> <li>• whether the Equality Act is likely to apply (e.g. reasonable adjustments)</li> </ul>	
<p>Remind the employee that their level of sickness absence has now reached the Council trigger point of <b>three or more period of sickness absence in a six month period.</b></p> <p>Advise the employee that should their level of absence reach the trigger point again in the next six months, the management of their absence would escalate to an Initial Short Term Absence Counselling Meeting which would also include a period of monitoring and targets to improve their levels of absence.</p>	

**Check List**

- |  |                |
|--|----------------|
| Have the correct notification procedures been followed?              | Yes / No       |
| Has a self-certification form been completed?                        | Yes / No       |
| Has a GP certificate (Fit Note) been received?                       | Yes / No / N/A |
| Is there a pattern of absences?                                      | Yes / No       |
| Has any support or action been identified?                           | Yes / No       |
| Is there a requirement to conduct a stress risk assessment?          | Yes / No       |
| Does the employee require to be referred to Occupational Health?     | Yes / No       |
| Has the Return to Work Interview date been entered on the Pink Form? | Yes / No       |

Please detail any support/action to be taken (if applicable) and date of implementation:

Signature (Line Manager): \_\_\_\_\_ Date: \_\_\_\_\_

Signature (Employee): \_\_\_\_\_ Date: \_\_\_\_\_

**Please return the completed Return to Work Interview Form to Human Resources.**

## **Return to Work Interview Guidance Notes for Managers.**

Orkney Islands Council's Sickness Absence Policy and Procedure requires that managers must conduct a return to work interview with all employees on their return to work where their most recent period of short term absence has resulted in the trigger point of three or more periods of sickness absence in a six month period being reached. The return to work interview is in place of the return to work discussion.

Tables 25.3a and 25.3b of the Sickness Absence Policy identify relevant managers that can conduct a return to work interview. It is recommended that the return to work interview should still be conducted by the immediate manager in an effort to keep the process as informal and supportive as possible, in the early stages.

For example, within a Residential Unit in Orkney Health and Care it would be acceptable practice that a Senior Social Care Worker would conduct the return to work discussion or within a Secondary School that the relevant Principal Teacher would conduct the return to work discussion.

It is preferable that the return to work discussion takes place on a face to face basis and should take place on the first day back from sickness absence, or the on the next working day/shift i.e. within two working days following the return to work.

The return to work interview is still an informal process, however it should be conducted face to face, rather than over the telephone unless this is operationally impossible to achieve (i.e. the manager is based in School Place and the employee lives and works on one of the North Isles).

It is important that the manager spend some time in preparation for the return to work interview, this should include:

- A review of the employee's sickness absence record over the past 12 months.
- Review any previous return to work discussion outcomes and actions.
- Consider if there could be any indication of an underlying medical condition.
- Consider if there is a potential pattern of absences.

Although it is not anticipated that a return to work interview will be a lengthy meeting in normal circumstances, it is important that dedicated time is set aside by managers to conduct them. They must not be seen or treated as simply a box ticking exercise or something that is done 'in passing' or 'on the hoof'. A properly conducted return to work interview is a productive, informal process of supporting and managing levels of sickness absence and can lead to reductions in ongoing levels of sickness absence where genuine action is taken and support put in place at an early stage.

The return to work interview should take place in a private location with no interruptions, if the meeting is being held in the manager's office they should remember to divert their phone so that they are not disturbed.

The purpose of return to work interview is fundamentally the same as the return to work discussion, but the slightly more 'formal approach' should acknowledge to an individual that their level of absence is now a concern for the Council. The discussion should again focus around:

- Establish the wellbeing of the employee.
- Establish if there are any possible underlying reasons for the absence.
- Establish if there are any supports which could be put into place to help minimise future sickness absence including possible referral to Occupational Health.
- Update the employee on any key developments within their role/workplace that occurred whilst they were off (if applicable).
- The manager must advise the employee that, should their level of absence reach the trigger point again in the next six months, the management of their absence would escalate to an Initial Short Term Absence Counselling Meeting, which would also include a period of monitoring and targets to improve their levels of absence.

As part of the discussion at the return to work interview, the manager should indicate their concern and interest in the welfare of the employee. They should try to explore any underlying reasons for the absence, ways of improving attendance and determine if there is a need for a referral to Occupational Health. Where there is a potential pattern of sickness absence emerging the manager should explore this with the employee.

The manager must ensure that the return to work interview form is completed either during or after the meeting. Once complete this should be forwarded to Human Resources; it is recommended that a copy of the return to work interview form is also provided to the employee for their information.

The manager must also ensure that the date of the return to work interview should be recorded on the Notification of Termination of Absence on Account of Sickness (Pink Form) which should then be forwarded to Payments (appendix 4). Upon receipt of this the date will then be entered onto the sickness absence record for that employee on the HR/Payroll system.

Having a date of a return to work interview date recorded against the relevant period of absence and the completed return to work interview form being received by Human Resources, will be considered as appropriate management action having been taken in accordance with the Council Sickness Absence Policy and Procedure for Performance Reporting purposes.

There is no ability to seek discretion for a return to work interview not to take place where the short term absence trigger point has been reached.

## Appendix 7 – Short Term Absence Counselling Meeting Checklist

Please refer to the Sickness Absence Policy and Procedure for further guidance and advice can also be sought from Human Resources.

<b>Employee Name</b>	
<b>Employee Job Title</b>	
<b>Work Location</b>	

### Stage in Short Term Counselling Process

Initial Counselling Meeting

Further Counselling Meeting

### Absences over the past 12 months

From	To	No of Days	Reason for Absence

### Discretion

Consider whether the circumstances of the case would warrant an application for Discretion (non-automatic). If so progress the application prior to arranging the meeting. Where Discretion is approved, the employee should be advised in writing of this, a template letter is available from Human Resources.

### Where no discretion application made or approved, arrange the meeting:

- Decide on the appropriate manger to hold the meeting (see section 25.3);
- Consider whether an application for discretion may be appropriate & progress;
- Give seven calendar days' notice of the meeting in writing (template letter available);
- Send out a copy of the Absence Management Policy and Procedure;
- Send out a copy of the employee's absence record over the last 12 months;
- Remind the employee may be accompanied by a work colleague or a Trade Union Representative/Official employed by a Trade Union;
- Ensure a private space is available to hold the meeting and it is large enough to accommodate everyone attending.



### Recommended Structure for Counselling Meeting:

The meeting should be conducted sympathetically and explore the reasons for the level of absence in order to support the employee to reach the required attendance levels.

<p>Explain the purpose of the meeting and identify the absences that have now resulted in the trigger point of three or more periods of absence in a six month period having been reached on two occasions.</p>	
<p>State any concerns you have in respect of the absences including the ongoing impact on the employee and the delivery of service.</p>	
<p>Discuss the reasons for the level of absence considering whether:</p> <ul style="list-style-type: none"> <li>• there may be an underlying medical reason</li> <li>• the absences are related</li> <li>• absence is related to work</li> <li>• there are personal reasons</li> <li>• the Equality Act is likely to apply such as making reasonable adjustments.</li> </ul>	
<p>Ask open questions and take care to listen.</p>	
<p>Advise of your responsibility to apply the Sickness Absence Policy and Procedure.</p>	
<p>Consider any ways that improvement in absence level can be achieved, including any additional measures and support that may be required to facilitate this. These may involve setting a monitoring period (maximum period of 12 months), implementing a reasonable adjustment, for example, a change to working pattern etc.</p> <p>Where appropriate, take account of any medical advice received from Occupational Health or the GP if appropriate.</p>	
<p>Where possible, address any work related issues which may be causing ill health and ensure any actions are recorded for example, if advice requires to be sought from Human Resources or Occupational Health or employee to make application to Access to Work.</p>	
<p>Consider whether an Occupational Health referral/further review may be appropriate for example, to provide advice and recommendations regarding an underlying medical condition or support the implementation of reasonable adjustments.</p>	

### Outcome of Initial Counselling Meeting

Advise the employee that a three month period of close monitoring of their sickness absence will be put in place effective from the date of the Initial Short Term Absence Counselling meeting.	
Advise the employee that during the three month period of close monitoring they have a target to improve their level of sickness absence so that it is no more than two periods of absence.	
Advise the employee that if their level of absence exceeds the set target, the management of their sickness absence would escalate to a Further Short Term Absence Counselling Meeting.	
Other agreed actions/outcomes please detail:	

### Outcome of Further Counselling Meeting

Advise the employee that a six month period of close monitoring of their sickness absence will be put in place effective from the date of the Stage 3 Counselling meeting.	
Advise the employee that during the six month period of close monitoring they have a target to improve their level of sickness absence so that it is no more than three periods of absence.	
Advise the employee that if their level of absence exceeds the set target, the management of their sickness absence would escalate to a Stage 5 Short Term Absence Capability Meeting.	
Other agreed actions/outcomes please detail:	

### Management Action following Counselling Meeting

Confirm the outcome of the counselling meeting in writing <b>within seven calendar days</b> . This will include details of the discussion, the outcome, the reasons for this and any sources of support agreed.	
Actively monitor the levels of sickness absence during the period of close monitoring.	
Where the levels of sickness absence exceed the set targets, escalate the management of sickness absence to the next stage in accordance with the policy and procedure.	
Where the employee successfully concludes the period of close monitoring and has maintained their levels of absence within the set targets, confirm this in writing within seven days of the end of the close monitoring period. A template letter is available to confirm this from Human Resources.	

**Managers Notes from Counselling Meeting**

[Empty box for notes]

Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Please ensure that a copy of the outcome letter is forwarded to Human Resources**

## Appendix 8 – Long Term Absence Review Meeting Checklist



Please refer to the Sickness Absence Policy and Procedure for further guidance and advice can also be sought from Human Resources.

<b>Employee Name</b>	
<b>Job Title</b>	
<b>Work Location</b>	

### Absence History over the past 12 months

From	To	No of Days	Reason for Absence

### Long Term Absence Review Conducted at:

4 weeks  3 months  6 months  9 months

### Discretion

Consider whether the circumstances of the case would warrant an application for Discretion (non-automatic). If so progress the application prior to arranging the meeting. Where Discretion is approved, the employee should be advised in writing of this, a template letter is available from Human Resources.

### Where no discretion application made or approved, arrange the meeting:

- Decide on the appropriate manger to hold the meeting (see section 25.3);
- Consider whether an application for discretion may be appropriate & progress;
- Give seven calendar days' notice of the meeting in writing (template letter available);
- Send out a copy of the Absence Management Policy and Procedure;
- Send out a copy of the employee's absence record over the last 12 months;
- Remind the employee may be accompanied by a work colleague or a Trade Union Representative/Official employed by a Trade Union;
- Ensure a private space is available to hold the meeting and it is large enough to accommodate everyone attending.

### Recommended Structure for Counselling Meeting:

The meeting should be conducted sympathetically and explore the reasons for the level of absence in order to support the employee to reach the required attendance levels.

<p>Explain the purpose of the meeting and identify the absence in question. The meeting should be conducted sympathetically and explore the reasons for the absence in order to support the employee to return to work.</p> <p>Where appropriate, seek advice from Human Resources before the meeting.</p>	
<p>Discuss the reason(s) for the absence and the employee's progress considering whether:</p> <ul style="list-style-type: none"> <li>• the absence is related to work</li> <li>• there are personal reasons</li> <li>• the Equality Act is likely to apply such as making reasonable adjustments</li> </ul>	
<p>Ask open questions and take care to listen.</p>	
<p>Advise of your responsibility to apply the Sickness Absence Policy and Procedure.</p>	
<p>Consider whether an Occupational Health referral/review may be appropriate for example, to provide advice and recommendations to support the return to work or implementation of reasonable adjustments.</p>	
<p>Discuss when a return to work will be possible, including any additional measures and support that may be required to facilitate this. These may involve a phased return or the implementation of reasonable adjustments, for example, a change to working pattern etc. Where appropriate, take account of any medical advice received from the employee's GP or from Occupational Health.</p>	
<p>Where possible, address any work related issues which may be causing ill health and ensure any actions are recorded for example, if advice requires to be sought from Occupational Health, changes to working pattern, carry out individual stress risk assessment, address Health &amp; Safety issues etc.</p>	
<p>State any concerns you have in respect of the absence including the ongoing impact on the employee and the delivery of service. Provide any work/service updates to the employee.</p>	
<p>Arrange a review meeting and/or schedule for keeping in touch with the employee.</p>	

### Agreed/Identified Actions

Has any support or action been identified?	Yes / No
Does the employee require to be referred to Occupational Health?	Yes / No
Has a review meeting been scheduled?	Yes / No
Have any reasonable adjustments been agreed?	Yes / No
Has a return to work date been identified?	Yes / No
Has a phased return to work been agreed?	Yes / No
Has a redeployment search been recommended?	Yes / No
Has retirement on the grounds of Ill Health been recommended?	Yes / No
Has a long term absence capability issue been identified?	Yes / No

Please detail any support/action to be taken (if applicable) and date of implementation:

--

**Management Action following Counselling Meeting**

Confirm the outcome of the review meeting in writing <b>within seven calendar days</b> . This will include details of the discussion, the outcome, the reasons for this and any sources of support agreed. A template letter is available from Human Resources.	
Where relevant, continue to monitor the sickness absence and maintain regular contact with the employee.	
Continue to review the absence, including interim review meetings following any reports from Occupational Health.	
Where length of absence reaches one of set review periods, arrange a further review meeting in accordance with the Council Sickness Absence Policy and Procedure. A template letter is available from Human Resources.	

Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Please ensure that a copy of the outcome letter is forwarded to Human Resources**

## **Appendix 9 – Ill Health Retirement Process Guidance.**

Retirement from employment with the Council on the grounds of permanent ill health is an exceptional process, is an independent medical decision (not a decision that can be made by the Council) and is governed by the rules of the relevant pension scheme i.e. either Local Government Pension Scheme (LGPS) or the Scottish Teachers Pension Scheme.

Where an employee is not a member of the relevant pension scheme and the medical advice is recommending retirement on the grounds of ill health, retirement on the grounds of permanent ill health is not able to be agreed and a health/absence related capability meeting will need to be arranged (see appendix 10 for guidance).

### **Local Government Pension Scheme Members.**

The LGPS requires that for an employee to be retired on the basis of permanent ill health, two independent registered medical practitioners (normally Occupational Health) to conclude that:

- The employee will, more likely than not, be incapable of discharging efficiently their duties of their employment or office with the employer because of ill health or infirmity of mind or body until, at earliest, their 65th birthday.
- The employee is not capable of obtaining gainful employment (within the Council or elsewhere) of not less than 30 hours per week for a period of not less than 12 months as a result of their medical conditions.

In straightforward terms the employee is medically unfit for their job until the age of 65 and is unfit for any other reasonable employment opportunity (if available) within the Council.

The Council will seek Occupational Health advice in respect of whether an employee would satisfy the criteria for possible retirement on the grounds of ill health.

Where the initial assessment from Occupational Health recommends ill health retirement, a meeting should be arranged with the employee, an appropriate manager and Human Resources. The employee should be provided with a minimum of seven days' notice of the meeting and be reminded that they can have a work colleague or trade union representative present. A template letter is available from Human Resources for this.

The purpose of the meeting is to:

- Discuss the Occupational Health advice.
- Confirm to the employee that they are considered medically unfit for their role and discuss the way forward in terms of possible ill health retirement.
- Advise the employee that the Council has a commitment under the Redeployment Policy to look for possible alternative employment opportunities within the Council for a period of 12 weeks and explain the process of redeployment.
- Confirm with the employee if they wish to consider a redeployment search, this is a choice for the employee.

Where an employee either does not wish to pursue redeployment or, following a redeployment search no suitable alternative employment is able to be found, a referral for a second physician assessment of the case by Occupational Health will be made.

Only where the second physician assessment confirms the initial assessment that the employee should be retired on the grounds of permanent ill health will ill health retirement be able to be progressed.

Following receipt of the Certificate of Permanent Ill Health from Occupational Health, a further meeting should be arranged with the employee, the Executive Director of Head of Service and Human Resources. The employee should be provided with a minimum of seven days' notice of the meeting and be reminded that they can have a work colleague or trade union representative present. A template letter is available from Human Resources for this.

This meeting will be the formal meeting at which the employee is ill health retired. Ill Health retirement is legally a termination of an individual's employment and therefore it is important that the relevant processes are followed carefully. Consideration should also be given to trying wherever possible to make the process as straightforward and friendly as possible within the formal context.

In the interim the following information should be gathered together:

- Estimate of pension benefits, from the Council Pensions Section.
- Confirmation of any outstanding annual leave entitlement the employee has, which would be paid in lieu.
- The contractual notice entitlement that the employee has, which would be paid in lieu.

At the ill health retirement meeting the following information should be covered:

- Occupational Health have advised that the employee meets the requirements for retirement on the grounds of permanent ill health.
- Either following a redeployment search no suitable alternative employment options were able to be identified/the employee opted to not pursue a redeployment search or suitable redeployment was identified, however the employee chose not to pursue this.
- Confirm that the employment with the Council in the specific post; will end from the date of the meeting on the basis of ill health retirement.
- Provide the employee with the pensions estimate, if not already provided.
- Confirm to the employee the payments to be made in lieu of contractual notice and for outstanding annual leave if applicable.
- Confirm to the employee that retirement on the grounds of permanent ill health does mean that they would not in the future be able work for the Council again, but this does not prevent them, health permitting, from being able to work for another employer if they wished.
- Confirm that as ill health retirement is a formal termination of their employment they would have the right of appeal against this decision if they so wished and that details of how to appeal will be confirmed in the outcome letter.
- Remember that this process may be difficult for the employee and can seem very formal, don't forget the simple people things of thanking the employee for their service to the Council etc.

Following the meeting a formal confirmation of the ill health retirement must be sent within seven days, a template letter is available from Human Resources.

A Termination Form should also be completed and passed to Payroll.



## Scottish Teachers Pension Scheme Members

Whilst retirement on the grounds of ill health for members of the Scottish Teachers Pension Scheme is a broadly similar process, based on the same underlying principles there are some distinct differences.

- There is no requirement to consider redeployment options, the requirement of the STPS is that the individual is unfit to teach, however the Council can, with the agreement of the employee, carry out a redeployment search for non-Teaching posts in accordance with the Council Redeployment Policy.
- The individual employee requires to formally make an application to the Scottish Public Pensions Agency (SPPA) for retirement on the grounds of ill health.
- Whilst it is recommended that Occupational Health advice is sought, an employee's GP or other physician can provide the necessary medical opinion to the SPPA, the responsibility for submitting the medical evidence in support of their application sits with the employee and not the Council.
- The SPPA Medical Adviser will consider the application and supporting medical reports and confirm the outcome to the employee and the Council, it should be noted that from experience the process of consideration by the SPPA can take a number of months.

Following confirmation from the SPPA that retirement on the grounds of ill health has been agreed a meeting with the Executive Director or Head of Service and Human Resources should be arranged.

The employee should be provided with a minimum of seven days' notice of the meeting and be reminded that they can have a work colleague or trade union representative present. A template letter is available from Human Resources for this.

This meeting will be the formal meeting at which the employee is ill health retired. Ill Health retirement is legally a termination of an individual's employment and therefore it is important that the relevant processes are followed carefully. Consideration should also be given to trying, wherever possible, to make the process as straightforward and friendly as possible within the formal context.

In the interim the following information should be gathered together:

- Confirmation of any outstanding annual leave entitlement the employee has, which would be paid in lieu.
- The contractual notice entitlement that the employee has, which would be paid in lieu.

Please note that an estimate of pension benefits cannot be provided from the Council, the employee should be directed to contact the SPPA to get a pensions estimate.

At the ill health retirement meeting the following information should be covered:

- SPPA have advised that the employee meets the requirements for retirement on the grounds of permanent ill health.
- Confirm that the employment with the Council will end from the date of the meeting on the basis of ill health retirement.
- Confirm to the employee the payments to be made in lieu of contractual notice and for outstanding annual leave, if applicable.

- Confirm to the employee that retirement on the grounds of permanent ill health does mean that they would not in the future be able work as a Teacher again including supply work.
- Confirm that as ill health retirement is a formal termination of their employment that they would have the right of appeal against this decision if they so wished and that details of how to appeal will be confirmed in the outcome letter.
- Remember that this process may be difficult for the employee and can seem very formal, don't forget the simple people things of thanking the employee for their service to the Council etc.

Following the meeting a formal confirmation of the ill health retirement must be sent within seven days, a template letter is available from Human Resources.

A Termination Form should also be completed and passed to Payroll.

## **Appendix 10 – Health or Absence Related Capability Guidance**

In both the short term and long term sickness absence a health/absence Capability Meeting is normally the final stage in the process, and can result in the individual's employment with the Council being terminated on the grounds of health/absence related capability.

Short term absence cases that escalate to this stage are normally those that, despite their best and reasonable efforts, the pattern of short term absence continues to be considered to be unacceptable and the Council is no longer able to accept as reasonable the impact and disruption that is caused as a result.

Long term absence cases that escalate are those where an individual's health/medical situation shows no likelihood of them being able to return to work within a reasonable timescale, redeployment to alternative duties are either not available, will make no difference to the situation or is not an option that the employee wishes to consider and retirement on the grounds of ill health is not supported.

### **Arranging a Health/Absence Related Capability Meeting**

A case may progress to a health/absence related capability meeting following the conclusion of the short term counselling review and monitoring process or normally after the long term absence review meeting (9 months). However in exceptional cases, a health/absence related capability meeting may be arranged earlier where it is clear that an individual's health/absence situation would dictate this and it is clear that this is a fair and reasonable course of action.

In such cases the manager who dealt with previous management of the absence under the procedure will prepare and submit a case summary to the relevant Executive Director or Head of Service outlining the following:

- The absence record of the employee over a minimum of the past 12 months, although this may be longer where relevant and appropriate to the case.
- Detail and documentation relating to all meetings held under the sickness absence policy and procedure relating to this case.
- Copies of all Occupational Health referrals and reports relating to the case.
- Any other relevant information pertinent to the case.
- Impact that the absence is having in respect of ongoing service delivery.

The report should also summarise the support/reasonable adjustments that have either been tried and/or considered in order to support the employee with their health/absence situation and detail why it is considered that there is now no other alternative than to consider termination of employment on the basis of health/absence related capability.

Managers are strongly advised to seek advice and guidance from Human Resources in preparing the case summary.

The employee must be advised that their case is being progressed to a health/absence related capability meeting and that a case summary is being prepared for consideration.

Upon receipt of the case summary the Executive Director/Head of Service should review this and consider if it is reasonable to progress to arranging the meeting.

The Executive Director/Head of Service will have advice and guidance available to them from Human Resources at this stage and at the meeting.

Where the Executive Director/Head of Service consider it is reasonable to progress to an absence/health related capability meeting, arrangements must be made and confirmed in writing to the employee ensuring that the following provisions are covered:

- A minimum of seven days' notice is provided.
- The employee is reminded that they may be accompanied to the meeting by either a work colleague or a Trade Union Representative/or Official employed by a Trade Union.
- The employee is provided with a copy of the case summary with the notification of the arrangements for the meeting.
- The employee is provided with a copy of the Council Sickness Absence Policy and Procedure with the notification of the arrangements for the meeting.
- The employee is advised of their ability to submit information for consideration in advance of the meeting should they so wish.

### **Procedure at a Health/Absence Related Capability Meeting**

The Executive Director/Head of Service and their adviser from Human Resources will meet with the employee and any work colleague or Trade Union Representative if the employee wished for them to attend.

Although a formal employment meeting, it is recommended that wherever possible the meeting is conducted with an informal manner.

Although not normally required, there is the ability for the manager who dealt with the case at the previous stage of the process and prepared the case review to attend to present a summary of the position.

The employee should be given the opportunity to provide any information and/or respond to the case summary as part of the meeting.

The Executive Director/Head of Service may ask questions of the employee to ensure that they are satisfied that they have a full appreciation of the situation.

The meeting should then be adjourned to allow full consideration of the information provided in full, before reaching a decision as to the way forward.

The outcome of the meeting must be confirmed in writing to the employee within seven days of the meeting, or within another agreed timescale where this is considered to be appropriate.

### **Outcome(s) from a Health/Absence Related Capability Meeting**

- Adjourn the meeting to allow a specific period of additional time provided to enable/evidence improvement in health/levels of short term absence.
- Adjourn the meeting to enable a period/further period of redeployment search, unless employee does not wish this or Occupational Health advice clearly states this is not an option.
- Conclude the meeting on the basis that level of improvement in short term absence is acceptable, this may or may not include a further review period.
- Terminate employment on the basis of health/absence related capability.

Where an individual's employment is terminated they would normally be paid in lieu of contractual notice and for any outstanding leave entitlement.

### **Appeal against Health/Absence related Capability Dismissal**

An employee who has their employment terminated as a result of health/absence related capability has a right of appeal against this decision, should they so wish. Any appeal against dismissal would be heard by the Staff Appeals Sub-committee of the Council.

An employee who is dismissed on the basis of health/absence related capability would have 14 days from receipt of the written confirmation of the capability meeting to submit their appeal in writing. Any appeal must be submitted in writing to the Head of HR and Performance and include detail of the grounds of appeal. Following receipt of an appeal, arrangements will be made for the appeal to be heard, normally within 28 days.

### **Re-employment with the Council following health/absence related capability dismissal**

An employee who has their employment terminated due to health/absence related capability is not prevented from any future application for employment to any externally advertised jobs within the Council. However, as part of the normal pre-employment procedures health/absence related issues are considered through Occupational Health and as part of previous employment references and, as such, could impact on whether or not an offer of employment may be able to be made.

### **Template Letters**

Template letters are available from Human Resources in respect of all aspects of the Absence/Health related Capability meeting procedures.

## Appendix 11 – Management Discretion Request Form

Employee Name	
Job Title	
Work Location	

### Employee Absence History over the past 12 months.

From	To	Number of Days	Reason for Absence

### Detail of Discretion Requested.

Stage of Sickness Absence procedure the discretion relates to:

S/T Initial Counselling Meeting		L/T Review Meeting (3 months)	
S/T Further Counselling Meeting		L/T Review Meeting (6 months)	
S/T Absence/Health Capability Meeting		L/T Review Meeting (9 months)	
L/T Initial Review Meeting (4 weeks)		L/T Absence /Capability Meeting	

Detail of what discretion is requested:

Specific explanation of why discretion is being requested:

Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager to submit request to their Head of Service/Executive Director for consideration

**Executive Director/Head of Service Approval.**

Is request for discretion approved as stated? Yes / No.

Comments

If no, are you prepared to approve an alternative discretion in this case? Yes / No.

Comments

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**This form should be returned to the relevant manager and copied to Human Resources.**