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SECTION J

MANAGEMENT OF SICKNESS ABSENCE AND SICK PAY

1. ATTENDANCE POLICY STATEMENT

Lancashire County Council is committed to providing an efficient, economical and effective service. To achieve this aim, a high level of attendance from employees is essential.

The County Council recognises that employees may be unable to attend through sickness. However, in exceptional circumstances there may be unacceptable levels and frequency of sickness absence. It is intended that, through the application of good management practice, any such unacceptable levels and frequency of sickness absence are kept to an absolute minimum. All Directorates will be required, therefore, to record information to assist in identifying the incidence and causes of absenteeism and to take appropriate action in accordance with the Attendance Policy Guidelines, including action in relation to working conditions, where necessary.

2. ATTENDANCE POLICY - GENERAL GUIDELINES

To further the aims and objectives set out in the Attendance Policy Statement the following guidelines are produced for reference and use as appropriate.

1. APPOINTMENT PROCESS

To avoid appointing persons with an unacceptable attendance record in their previous employment, specific questions should be asked both during the interview (including questions on the reasons for absence where appropriate) and, upon requesting references, about attendance history. In reference requests care should be taken to avoid using terms like ‘is the person a good attender?’ which is open to subjective interpretation.

The actual incidence and length of any periods of absence within the last two years together with reasons for absence for any period exceeding 20 working days should be requested of the prospective employee’s current (or last) employer. Any circumstances outside the applicant’s control should also be requested, e.g. road accident, as should details of any ‘live’ disciplinary warnings for punctuality or absence. A recommended pro-forma reference request is set out within the County Council’s Recruitment and Selection Corporate Policies and Guidance (Code of Practice).

This approach not only provides valuable information for use in the appointment process but also reinforces the Authority’s view on attendance. However, in considering the information provided, management must have regard to the County Council’s Equal Opportunity Policy on Disability and, in particular, will need to have regard to this policy
when considering applications from registered disabled persons and the reasons for absence.

The Attendance Policy Statement should be issued to all new employees with the Statement of Particulars of Terms of Employment.

2. INDUCTION

During the Induction period good attendance should be reinforced as a positive aim of the Employing Directorate together with advice to new employees of the correct procedure to follow if they are unable to attend work i.e. the notification procedure, and consequences if that procedure is not adhered to.

Prior to confirmation of appointment the Directorate should carefully review any periods of absence during the probationary period (extending the period where necessary) or, in extreme cases, take steps not to confirm the appointment. Where an extension to the probationary period is to be made the employee should be kept fully informed of the reason for the non-confirmation of appointment.

3. NOTIFICATION PROCEDURE

3.1 INITIAL NOTIFICATION

Every attempt should be made by an employee to notify sickness absence no later than a specified time on the first working day, although there may be individual circumstances, which prevent this being achieved.

At notification, the employee should give brief details of reason for absence and whether or not the absence is caused by accident or injury at work (separate conditions apply in these instances) together with the day on which absence began. Where at all possible the employee must speak personally to his/her line manager (the employee having been notified who this is). Details of the reason for sickness absence must be documented.

3.2 FURTHER NOTIFICATION

If the absence extends beyond three days the employee is required to make further contact.

This must again be with the line manager on a personal basis if at all possible.

3.3 ABSENCE BEYOND SEVEN DAYS

If the absence extends beyond seven days (including weekends) a doctor’s statement must be produced as soon as possible.
The statement should be forwarded to the line manager for information and recording as appropriate prior forwarding to the relevant Human Resources/Personnel/Staffing Section.

3.4 UPON RETURN TO WORK

Upon return to work following any period of absence, the employee must report to the line manager so that the records can be noted accordingly. A self-certification statement covering periods of absence beyond three days duration must also be completed by the employee.

The line manager should take this opportunity to have either a brief talk with the employee about the absence at that time or agree a mutually convenient time when this can take place (privately). This provides the opportunity to discuss the absence, ensuring the employee is now fully recovered and that there is no action which has to be taken by the Directorate to avoid further absences.

The line manager is probably the first to be aware of any underlying problems the employee may be experiencing and, also, in a position to be able to offer constructive advice or practical assistance if there is a problem which is work-related. It must be acknowledged that, for the majority of time, employees are sick for reasons beyond their control, and the return to work interview provides the opportunity to welcome them back and be supportive. Reference may also be made during the interview to other sources of available assistance with contact being arranged via the line manager should the employee request such assistance (e.g. the Employee Welfare and Counselling Service). It should also be borne in mind that a number of trade unions provide a range of welfare services for their members.

3.5 MONITORING ABSENCE

The main aim of monitoring absence is to ensure that an acceptable level of attendance is achieved and maintained. A key to controlling absence is comparison between employees/sections/Directorates/etc. Monitoring enables line managers to be fully aware of the effect which absence has on the overall Directorate attendance records and will also highlight employees or groups of employees who have, apparently, unacceptable levels of absence and will assist in identifying problems other than sickness which cause such absences.

Each Directorate should make arrangements for the regular submission of sickness absence statistics to their senior management team. On a quarterly and annual basis sickness absence data should be provided to the Head of Human Resources (Chief Executive’s Office) in order that corporate sickness absence data can be collated.
3.6 FURTHER ACTION

Following the extraction of data, those employees whose attendance is causing concern should be interviewed by the manager nominated for this purpose by the Directorate. Nominated managers should receive appropriate training in counselling as soon as possible.

The attendance details should be brought to the employee’s attention and constructive help offered. Where necessary a further review period should be set (this would not apply to long term absentees who should continue to be dealt with under existing practice).

Dealing with employees beyond the counselling stage is a sensitive issue and in exceptional cases, absence could be to such an extent as to affect the capability of an employee to undertake the duties of the job. Further guidance is available in the Procedure for Dealing with Unacceptable Repeated Absence Due to Sickness and in the procedure for dealing with Long Term Sickness Absence. Reference is also made to the County Council’s Policy on Problem Drinking/Drug Abuse and the existing procedure for dealing with permanent incapacity to carry out appointed duties because of ill-health.

NOTE: Maintaining contact with employees who are absent on any period of sick leave is important as it emphasises the importance the Authority places on attendance and on the welfare of the employee.

3.7 MEDICAL EXAMINATIONS

The County Council may, at any time request an employee to submit to a medical examination by a medical practitioner nominated by the Authority. A medical opinion may be helpful when dealing with difficulties associated with persistent sickness absence.

All referrals for the medical examination of employees should be to the County Council’s Occupational Health Service using the appropriate referral documentation. When submitting an individual for a medical examination, the employing Directorate should advise upon the reason(s) for the referral and give supporting evidence on past attendance. Details of the employee’s duties and a risk assessment should also be provided.

Prior to any referral, the employing Directorate should inform the employee of their intention to refer them to the County Council’s Occupational Health Service.

The medical report, when received, should be fully taken into account in deciding future management action. The contents of the report will be shared with the employee concerned unless the Health Advisor specifies otherwise.
3.8 CONCLUSION

The above measures should assist in achieving the desired level of attendance. Occasionally, it may be necessary to apply other procedures depending upon individual circumstances. These guidelines are in addition to existing procedures and agreements.

The application of monitoring and control procedures along the lines indicated will ensure equitable and supportive treatment for staff who are ill. It will also assist in keeping periods of absence to an absolute minimum, which will in turn assist in achieving the aims, and objectives as set out in the Attendance Policy Statement.

3. PROCEDURE FOR DEALING WITH UNACCEPTABLE REPEATED ABSENCE DUE TO SICKNESS

The County Council's Procedure for dealing with unacceptable repeated absence due to sickness is set out at Appendix J1.

4. PROCEDURE FOR DEALING WITH LONG TERM SICKNESS ABSENCE

The County Council's Procedure for dealing with Long Term Sickness Absence is set out at Appendix J2.

5. GUIDELINES TO ASSIST EMPLOYEES TO RETURN TO WORK FOLLOWING SICKNESS ABSENCE

Guidelines To Assist Employees to Return To Work following Sickness Absence are attached at Appendix J3.

6. REFERRALS TO THE OCCUPATIONAL HEALTH SERVICE

The following notes of guidance should be read by all managers who are considering referring members of staff to the Occupational Health Service for an opinion on their fitness to work.

In accordance with existing recommended best practice all employees absent due to sickness should be referred to the Occupational Health Service after no more than 4 weeks. Form OHR1 should be completed in respect of all sickness absence referrals. Should problems be encountered in completing the referral form, managers should contact either their Directorate/DSO Personnel Section or the Occupational Health Service.

In order to achieve the earliest possible return to work in each case managers should consider any possible short term (reasonable) adjustments to an employee’s duties or
working arrangements (including alternative employment opportunities) prior to making the referral. The circumstances of each referral should also be discussed with the employee concerned.

By considering return to work options at this early stage (i.e. within the first four weeks absence) and by involving the employee concerned it is expected that individual periods of absence will be substantially reduced.

The role of the Occupational Health Advisor is to advise about appropriate actions to take in order to establish an effective rehabilitation programme by considering the suggested return to work option(s) and give a view on the employee’s fitness to return to work. The availability of return to work options at this early stage should also eliminate the need for repeat appointments in many cases. However, it is accepted that in some cases the employee’s condition/state of health will make the consideration of a return to work inappropriate.

Given the limited physician time available, managers are advised to be as clear and concise as possible when completing the section on the referral form relating to the case details and the reason(s) for the referral. Any information or questions the manager may wish the Advisor to address should be included at section 8 of form OHR1 and might include the following:

i) How the underlying medical condition affects his/her work
ii) Why is the illness/condition preventing a return to work?
iii) What is the long-term prognosis?
iv) How long is the absence likely to continue?
v) Is he/she likely to recover sufficiently to return to work in his/her current post?
vii) Is there any likelihood of this condition recurring which could result in any future long-term absence?
vii) Will the possible adjustments identified by the employer facilitate an early return to work in this case (and when)?
viii) Does the Disability Discrimination Act apply in this case

NB: In the event of any doubt about the details to include on the referral form Managers should contact the Occupational Health Service to discuss the situation prior to making the referral.

Completed referral forms should be placed in a sealed envelope marked ‘confidential’ and addressed to: The County Council’s Occupational Health Service, PO Box 78, County Hall, Preston, PR1 8XJ. Telephone (01772) 262199.
7. **SICK PAY ENTITLEMENT**

Extensions of sick leave in accordance with the following formula will be automatically applied to staff with the appropriate service.

<table>
<thead>
<tr>
<th><strong>Years Service</strong></th>
<th><strong>Full Pay</strong></th>
<th><strong>Half Pay</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to and including 20</td>
<td>Entitlement in accordance with National Conditions of Service</td>
<td></td>
</tr>
<tr>
<td>Over 20, up to and including 30</td>
<td>7 months</td>
<td>7 months</td>
</tr>
<tr>
<td>Over 30, up to and including 40</td>
<td>8 months</td>
<td>8 months</td>
</tr>
<tr>
<td>Over 40</td>
<td>9 months</td>
<td>9 months</td>
</tr>
</tbody>
</table>

The duration of entitlement to extended sick pay is calculated at the first day of absence.

**Local Government service (or other service recognised for leave purposes) counting as completed years of service**

The granting of extended sick pay is subject to meeting the conditions for the payment of sick pay as set out in the Green Book. (Part 3 paragraph 4.1);

Chief Officers are delegated authority to extend an employee's period of sick leave on full or half pay in accordance with the guidelines detailed below.

8. **EXTENSIONS OF ENTITLEMENT TO SICK PAY - GUIDELINES.**

These set out examples of circumstances which typically arise in which employees may exhaust their sickness entitlement.

It is stressed that the basis of the national and local conditions of service is that there are limits to the amount of sick pay granted, and extensions will therefore only be considered in exceptional circumstances.
<table>
<thead>
<tr>
<th>Circumstances</th>
<th>Course of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sickness entitlement expired - prognosis indicates likely return to work - irrespective of length of service</td>
<td>As per national conditions (plus County Council extensions if justified on service).</td>
</tr>
<tr>
<td>Sickness entitlement expired - likely prognosis unfit to carry out duties of post on permanent basis - may be seeking alternative employment</td>
<td>As per national conditions (plus County Council extensions if justified on service).</td>
</tr>
<tr>
<td>Sickness entitlement expired - doctors unable to give firm prognosis re. Return - situation to be reviewed</td>
<td>As per national conditions (plus County Council extensions if justified on service).</td>
</tr>
<tr>
<td>Sickness entitlement expired - case of a serious character where considered recovery would be materially assisted by relieving anxiety.</td>
<td>Consideration to extension beyond national conditions (plus County Council extensions if justified on service) on full/half pay as considered appropriate in the circumstances.</td>
</tr>
<tr>
<td>Sickness entitlement expired - conflict of medical opinion re. Fitness for work Occupational Health considers unfit, GP considers fit).</td>
<td>Full pay until Independent Medical Examination (on basis that the County Council is restraining the individual from working and therefore not covered by sickness pay scheme). Consideration to extension beyond national conditions (plus County Council extensions if justified on service) on basis of half pay.</td>
</tr>
<tr>
<td>Terminal Illness</td>
<td></td>
</tr>
</tbody>
</table>

**Note 1**  
Extension on the basis of half pay is suggested in the knowledge:

- that employees will at the time of consideration normally be on half pay in accordance with the national/local entitlement;

- that after a period of 28 weeks employees who pay National Insurance will receive State benefit, which during a period of half pay will not be deducted from salary/wages. In addition reduced N.I/Pension/Tax will be deducted. (This means that half pay or full pay less benefit which ever is the least would be paid).

**Note 2**  
In exceptional circumstances Chief Officers may consider an extension of sick pay solely on the basis of the financial circumstances of an employee. This requires detailed information relating to the personal financial circumstances of an employee and
the Head of Human Resources should be consulted prior to any proposal being pursued on this basis.

9. ASSAULT/SERIOUS INJURY

In circumstances of assault/serious injury, (including industrial disease) suffered by an employee during the course of his/her duty, the employee has an entitlement to full pay for a maximum period of nine months.

In cases where a return to work is unlikely within a nine month period, the relevant Chief Officer should consider an extension of full sick pay, at a sufficiently early stage to ensure continuity of payment.

It would normally be expected that an extension would be granted under the following circumstances:

- where, arising from the assault/serious injury/industrial disease, the employee’s condition is such that he/she is still considered to be unfit to return to work;

- where the employee has been declared unfit to carry out his/her existing duties and the possibility of alternative employment is being actively investigated;

- where the employee is likely to be retired on health grounds, pending completion of termination procedures.

Note 1 In these cases, where the agreed criteria are met, there is no requirement to consult the Head of Human Resources.

Note 2 In appropriate cases, due account will be taken of any contribution to the circumstances for which the employee is considered to be responsible, which may affect the extent to which the provisions are implemented.
PROCEDURE FOR DEALING WITH UNACCEPTABLE
REPEATED ABSENCE DUE TO SICKNESS
(revised August 2002)

1. INTRODUCTION

The Attendance Policy General Guidelines set out various methods for the management and control of sickness absence. They include Return to Work Interviews, the ongoing monitoring of absence levels and provision for counselling sessions where necessary.

The aim of the Attendance Policy is to maximise attendance at work by management action, which may include varying working conditions and informal interview/counselling situations. However, there may be instances where the foregoing methods have not achieved the level of attendance it is deemed necessary and where further action may be considered necessary. It must be stressed that each case should be considered on an individual basis taking into account the nature of the employee’s illness or disability, frequency and pattern of absence, overall absence record, operational needs of the service, impact of the absence on other employees, etc.

Set out below is a procedure for dealing with persistent and/or intermittent sickness absence beyond the stages covered within the Attendance Policy Guidelines.

This procedure does not replace the existing procedure for dealing separately with long-term ill-health cases where the nature of illness is such that termination of employment on the grounds of permanent incapacity is the likely prognosis. However, long-term ill health cases where the nature of illness is not considered to be permanent will be reported to the Attendance Panel and the Appeals and Complaints Committee where appropriate. If it becomes clear at any stage of utilising this procedure that permanent incapacity to carry out the appointed duties on ill-health grounds is the underlying issue then this procedure will be suspended and medical advice sought (separate officer advice has been issued regarding long-term ill-health cases). Likewise, the ‘Procedure for Assisting Employees who become Disabled’ will continue to apply where appropriate.

Whilst warnings or cautions may, initially, seem incompatible with sickness absence, they are essential when the end result might be termination of that employment. There comes a time when any reasonable employer is entitled to decide that termination of employment is the only reasonable course of action, providing that the employee has been given sufficient warning that this may be the outcome if attendance does not improve and that a period of time over which to improve attendance has been specified and exhausted to no avail.
NOTE: Employees should be informed of their right to be accompanied by a representative of their choice and/or a personal friend in any formal interview situation.

It should be noted that any decision to terminate employment arising from persistent and/or intermittent sickness absence **MUST** be preceded by the following steps:-

- a review of the employee’s attendance record and reason(s) for absence including, where appropriate, reference to a medical examination;
- an opportunity for the employee to make representations regarding the sickness absence;
- appropriate warnings that dismissal may occur if attendance does not improve within a specified period (targets for improvement and review dates should preferably be mutually set).

It is not necessary to obtain medical evidence confirming the employee’s condition when first applying this procedure. In instances where short-term unrelated illnesses are the reasons for absence there is nothing to be gained by obtaining a medical opinion. If however, the illnesses indicate that there could be an underlying theme which has not already been addressed then medical advice may indicate a course of action which could result in an improvement in attendance. Each case should be dealt with on an individual basis. If there is no current medical report available at Stage Three of the procedure, however, it is recommended that a medical report be obtained from the County Council’s Occupational Health Service.

In exceptional circumstances a repeat of each of the Stages may be made before moving onto the next Stage if, within the review period, attendance has improved but not up to the mutually agreed level and there are acceptable mitigating circumstances.

Normally, the stages set out are sequential, but if an employee has already progressed through some of the stages and action has ceased because attendance at the review period is deemed to be satisfactory and if within the following twelve month period is again considered to be necessary, the process may begin at Stage Two or Three (as appropriate). Where a twelve month period of acceptable attendance has been completed following a satisfactory review period, any subsequent action would begin at Stage One.

2. **PURPOSE**

Current employment legislation and good industrial relations practice require all employers to have fair and effective arrangements for dealing quickly and effectively with staffing problems.
This procedure is intended to clarify the rights and responsibilities of management, trade unions and employees and sets out the course of action to be followed in the event of formal action being considered necessary because of the incidence and/or frequency of sickness absence.

It should be noted that the over-riding concern is the extent to which the absence attributable to illness is affecting attendance. It is inevitable, therefore, that this procedure will be applied to employees with genuine health problems and the various steps as set out should be handled compassionately.

3. **SCOPE**

This procedure applies to all permanent and temporary, full and part-time Employees of the County Council in the Green Book, Craft and Soulbury categories. The arrangements do not apply to staff of delegated schools for whom separate procedures will operate.

This procedure does not apply to employees who have not completed their probationary service and where dismissal arises from unsuitability for confirmation of appointment.

4. **PROCEDURE**

Where the monitoring procedures highlight an individual’s continuing absence as unacceptable considering all the circumstances of the case, the following steps should be followed.

**STAGE ONE**

Where there are continuing management concerns relating to persistent and/or intermittent sickness absence of the employee, the senior line manager (as defined by each directorate) should formally review the absence record taking note of reasons for absence. The employee should then be invited, in writing, to a formal interview. The invitation should state the absence details and the opportunity to be accompanied by a representative of his/her choice and/or a personal friend.

At the initial formal interview between the employee and his/her senior line manager, attention should be drawn to the absence pattern and reasons for absence. The reasons should be discussed in an attempt to identify any underlying causes. Assistance of the Employee Welfare and Counselling Service or any other relevant bodies should be mutually explored.

The senior line manager should emphasise that the level of attendance is considered to be unsatisfactory and that improvement is needed over a relevant period (the specific period to be determined depending upon the individual circumstances) and a target for improvement should be set with the employee.
concerned (preferably mutually) and a review interview should be fixed following that period. The outcome of the Stage One interview should be confirmed in writing to the employee concerned enclosing a return slip to acknowledge receipt of the letter. It should be stressed both in that interview and in the letter of confirmation that, if attendance deteriorates during the review period to the extent that absence exceeds that in the previous period monitored, the review date will be brought forward.

If, following the review period, attendance improves and is within acceptable levels, no further action should be taken other than to confirm, in writing, to the employee concerned that attendance is now considered to be satisfactory. However, the employee should be informed that attendance is continuously monitored and if further action is deemed to be necessary under this policy within the following twelve months, any action may begin at Stage Two of this procedure.

STAGE TWO

If there has been no acceptable improvement after Stage 1, then the second formal interview with the manager/next level of supervision should be held.

Again the absence details and the reason for the interview should be set out within the letter inviting the employee to attend. The right to be accompanied by a representative of the employee’s choice and/or a personal friend should also be specified within the letter. The interview should cover (again) the reasons for absence and any underlying causes but should also include the implications of the continued excessive absence, e.g. cost implications, lost contracts, loss of service provision, etc. Assistance by the Employee Welfare and Counselling Service or any other body should continue to be mutually explored.

The employee should be warned that the level of attendance is considered to be unacceptable and that a significant and sustained improvement is needed. The employee should also be informed that a further period will be monitored (the specific period to be determined depending upon the individual circumstances of the case in question), a further interview will be held following this period and that if there is no significant and sustained improvement then the outcome of that final review could be a recommendation for dismissal on the ground of incapacity to maintain an acceptable level of attendance.

A target for improvement should be set with the employee (preferably mutually). The outcome of the Stage Two interview should be confirmed in writing to the employee concerned enclosing a return slip to acknowledge receipt of the letter. It should be stressed both in the interview and the letter of confirmation that, if attendance deteriorates during the review period to the extent that absence exceeds that in the previous period monitored, the review date will be brought forward.
At the end of the further review period, if the attendance has improved to within acceptable levels then no further action should be taken other than to inform the employee, in writing of this fact. However, the employee should be informed that attendance is continuously monitored and if further action is deemed to be necessary under this policy within the following twelve months, any action may begin at Stage Two or Stage Three of this procedure.

**STAGE THREE**

If there has been no acceptable improvement after Stage 2 then the final formal interview should take place. If there is no current medical report available then an independent medical opinion should be obtained prior to the interview.

**NOTE:** In the event that an employee either refuses to attend for medical examination or does not attend on more than one occasion, progress to Stage Three should not be unduly delayed. In such instances, the employee should be informed that, unfortunately, the County Council will have to proceed without the benefit of a current medical report for reference. The letter inviting the employee to attend the hearing should, again, set out the attendance record and advise of the right to be accompanied by a representative of his/her choice and/or a personal friend. It should also specify the reason for the interview and that a recommendation for dismissal could be the end result of the meeting.

Any new information regarding ill-health or change in nature of the sickness absence should be considered and the interview suspended if it is seen to be appropriate to obtain any further medical advice.

After considering the representations made during the interview, a final decision should be made to take a report, which may recommend termination of employment, to the Attendance Panel. Any appeals against dismissal would be to the Appeals and Complaints Committee (See Annexes 1 and 2).
ATTENDANCE PANEL

1. An Attendance Panel shall be appointed in relation to matters referred under the County Council’s Sickness Absence Procedures. Each Panel will consist of three Officers appointed from an approved pool of experienced personnel practitioners. At any one meeting, Panel Members will not be involved in consideration of any case from within their own Directorate or DSO (this provision does not apply to Officers drawn from the County Personnel Services Group). Also no person having a direct personal involvement or close personal interest in any one under consideration will be a member of the Panel. The quorum will be three members. The Panel will also be attended by a representative from the Legal Services Group or the County Personnel Services Group who will act as Clerk to the meeting and will advise on law and procedure only.

2. The Attendance Panel will meet as soon as is practicable, but (other than in exceptional circumstances) within 30 working days, from the date when the employee is formally notified of the decision to submit a report to the Panel.

3. The Chief Executive will inform the employee, in writing, that a report is being submitted to the Attendance Panel and that the employee should be present and, if desired, be represented by a legal or trade union representative or work colleague and/or a personal friend, to reply to the case presented by the Authority. Where the employee fails to attend or to be represented at a meeting of the Attendance Panel and no reasonable explanation is forthcoming, the matter may be considered in his/her absence.

4. The Attendance Panel will have placed before them:

   4.1 the employee’s absence record over a relevant period (depending upon the nature of the absences) with any patterns/frequencies highlighted which are considered to be relevant,

   4.2 all correspondence confirming action taken,

   4.3 a current medical report (where this is available) and any further medical advice relevant to the case.

The employee and his/her representative should also receive a copy of the documentation to be placed before the Panel as soon as possible and not less than 10 working days prior to the date of the meeting.
The employee or his/her representative must submit any written, documented response no later than 3 working days prior to the date of the meeting.

**PROCEDURE**

5. The case will first be put by a representative of the employing Directorate who will be entitled to call witnesses to support the case.

6. The employee and/or his/her representative and the Attendance Panel will be entitled to question the persons referred to at 5. above.

7. The employee and/or his/her representative will present a statement of case and will be entitled to call witnesses to support the case.

8. The employing Directorate’s representative and the Attendance Panel will be entitled to question the employee and any witnesses who have been called.

9. The employing Directorate’s representative will have the opportunity to sum up. The employee and/or his/her representative shall then also have the opportunity to sum up (N.B. no new evidence may be introduced by either party at this stage).

10. At the conclusion, all parties will withdraw except the Attendance Panel Members and the Chief Executive’s representative (advising on law and procedure only) who will deliberate in private. Should any parties need to be recalled to clarify any points of uncertainty, all parties should return notwithstanding that the point giving cause for concern relates to one party only.

11. Subject to paragraph 12 below, a decision by the Attendance Panel to dismiss an employee will be with due notice, the date of dismissal being the date of expiry of the notice period. The notice period will commence with immediate effect from the date of the Attendance Panel Hearing.

   If an appeal is lodged and the appeal hearing is after the date of dismissal and is successful, the employee will be reinstated, with full pay backdated, if necessary, to the date of expiry of the notice. If a successful appeal takes place within the notice period, full pay will only be restored at the end of the notice period.

12. If, however, there is no requirement to continue to search for alternative employment during the notice period, the dismissal will take effect immediately with pay in lieu of notice. In this eventuality, and for the avoidance of doubt, the date of dismissal will be the date of the decision of the Attendance Panel.

   If an appeal is lodged and the appeal hearing takes place after the date the notice would have expired but for payment in lieu of notice, and is successful, the employee will be reinstated with full pay backdated to that date. If the appeal is
heard within the period in respect of which payment in lieu has been received, and is successful, full pay will only be restored at the end of that period.

13. The Chief Executive will provide the employee with written confirmation of the decision of the Attendance Panel within 3 working days. The written confirmation will also include the reasons for the decision and indicate the right of appeal.

14. Notice of appeal must be received by the Chief Executive within 10 working days of the employee being given written confirmation of the decision arising from consideration by the Attendance Panel together with details of the grounds of appeal and any relevant supporting documentation.

15. If the employee exercises the right of appeal he/she should be present at the Appeals and Complaints Committee meeting and, if desired, be represented by a legal or trade union representative or work colleague and/or a personal friend, to reply to the case presented by the Authority.

Where the employee fails to attend or to be represented at a meeting of the Appeals and Complaints Committee and no reasonable explanation is forthcoming, the matter may be considered in his/her absence.

16. The Appeals and Complaints Committee will hear the appeal within 30 working days of date of receipt of notification of appeal and the Appellant will be given 10 working days’ notice of the hearing.
APPEALS AND COMPLAINTS COMMITTEE

1. The Appeals and Complaints Committee shall have delegated powers for the purpose of hearing and determining any appeals, which may be made against decisions of the Attendance Panel. The Committee shall comprise a maximum of eight members with a quorum of two. A representative of the Chief Executive will act as Clerk to the meeting and will provide advice on law and procedure only.

2. The appellant may be represented by a legal or trade union representative or work colleague and/or a personal friend in any appeal against a decision of the Attendance Panel.

3. The Appeals and Complaints Committee will have the right to allow the appeal or to confirm or alter the decision arising from consideration by the Attendance Panel.

4. The Appeals and Complaints Committee will be entitled to call for an adjournment of the hearing if fresh evidence is introduced of which they were previously unaware and which has a bearing on the case.

5. The Appeals and Complaints Committee will have placed before them:
   5.1 the original documentation placed before the Attendance Panel,
   5.2 the appellant’s letter of appeal, grounds of appeal and any supporting documentation.

PROCEDURE

6. The case against the appellant will first be put by a representative of the employing Directorate who will be entitled to call witnesses to support the case.

7. The appellant and/or his/her representative and the Appeals and Complaints Committee will be entitled to question the persons referred to at 6. Above.

8. The appellant and/or his/her representative will make a statement of appeal against the action imposed and will be entitled to call witnesses to support the case.
9. The employing Directorate’s representative and the Appeals and Complaints Committee will be entitled to question the appellant and any witnesses who have been called.

10. The employing Directorate’s representative will have the opportunity to sum up. The appellant and/or his/her representative shall then also have the opportunity to sum up (N.B. no new evidence may be introduced by either party at this stage).

11. At the conclusion, all parties will withdraw except the Appeals and Complaints Committee members and the Chief Executive’s representative (advising on law and procedure only) who will deliberate in private. Should any parties need to be recalled to clarify any points of uncertainty, all parties should return notwithstanding that the point giving cause for concern relates to one party only.

12. The decision of the Appeals and Complaints Committee will be conveyed to both parties orally and will have immediate effect. The Chief Executive will also confirm the decision to the appellant, in writing, within 3 working days.
PROCEDURE FOR DEALING WITH LONG TERM SICKNESS ABSENCE
(revised August 2002)

1. INTRODUCTION

This procedure outlines the necessary steps which should be taken when dealing with individual cases of long term sickness absence (long term ill health).

2. SCOPE

The arrangements apply to all permanent and temporary, full and part-time employees of the County Council covered by national agreements on pay and conditions of service laid down by the National Joint Council for Local Government Services, the Joint Negotiating Committee for Local Authority Craft and Associated Employees, the Soulbury Committee and the Joint Negotiating Committee for Teachers in Social Services Establishments. The arrangements do not apply to staff of delegated schools for whom separate procedures will operate.

3. REVIEW OF CASES

It is important for management (usually the line manager) to keep in regular contact with an employee when he/she is absent from work for ill health reasons. This emphasises concern for the employee and also the importance placed on attendance and provides the opportunity for the line manager to respond in a practical way if there is any work-related issue causing the absence which can be addressed.

A personal visit is (usually) preferable to a telephone conversation in relation to long term absence. In making arrangements the employee should be advised that they may be accompanied by a friend, relative or other representative at any visit. Circumstances might arise whereby an employee requests that a visit of this nature takes place at a venue other than his/her home or workplace. If this is the case then every effort should be made to find a suitable alternative venue. If an employee expresses a wish not to be visited or cannot otherwise be contacted, the employing Directorate/DSO should write to him/her setting out the actions which they intend to take and the options, if any, which may be available to the employee. In writing, the employing Directorate/DSO will take account of all known circumstances relating to the case.

In respect of those employees covered under the Disability Discrimination Act 1995, the County Council, as an employer, must take any steps which it is reasonable to have to take to reduce or remove any substantial disadvantage which a physical feature of the premises or the employment arrangements causes a disabled employee compared to a non-disabled person. This is known as a 'reasonable adjustment'. At this early stage it will probably be helpful to talk to the employee about what the real effects of the disability might be and/or what might help.
4. MEDICAL EXAMINATIONS

Under the National Conditions of Service, employees shall, if required by the Authority at any time, submit to a medical examination by a medical practitioner nominated by the Authority, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. It should be noted that failure to attend for a scheduled medical may disqualify the employee from the provisions of the occupational sick pay scheme.

All referrals for medical examination should be to the County Council's Occupational Health Service. On the advice of the County Council's Occupational Health Advisor, all employees absent due to sickness should be referred to the Occupational Health Service after no more than four weeks. However, if an employee is believed to be suffering from stress, anxiety or depression, particularly where this may be work related, he/she should be referred after only two weeks.

It should be noted that the above guidance does not apply in cases where an employee has undergone major general surgery or suffered a serious fracture. Such cases should only be referred if the period of sickness absence exceeds eight weeks.

Prior to any referral and in order to achieve the earliest possible return to work in each case, the manager should consider any possible short term (reasonable) adjustments to an employee’s duties or working arrangements (including alternative employment opportunities). The circumstances of the referral including any possible adjustments to an employee’s duties or working arrangements should be discussed with the employee. By considering return to work options at this early stage (i.e. within the first four weeks absence) and by involving the employee concerned it is expected that individuals periods of absence will be substantially reduced.

It is important to note that before any action is taken to refer an employee for a medical opinion, he/she should be informed and any arrangements should be confirmed in writing. Where appropriate, reimbursement of travelling expenses should be in accordance with existing practice.

The employee must also be informed that, if the medical report specifies permanent incapacity, then termination of employment will follow unless other comparable employment (i.e. suitable alternative employment) can be identified. In appropriate cases reference should also be made to facilities offered by the Employee Welfare and Counselling Service.

In very exceptional circumstances, and only where an employee's condition/circumstances prevent reasonable travel arrangements being made, the Physician/Health Advisor will be able to visit employees in their own homes.
The outcome of a medical examination will be that an employee is

either  (i) fit to return to the full duties of the post;

or  (ii) fit to return to the duties of the present post
(or alternative employment) subject to their having been
some reasonable adjustment carried out and/or the
benefit of a rehabilitation programme;

or  (iii) permanently incapable of discharging efficiently
the duties of the present post, but fit for other
comparable employment with the County Council (the
County Council's Occupational Health Advisor would
advise as to the nature of such work);

or  (iv) permanently incapable of discharging efficiently
the duties of the present post or any other
comparable employment with the County Council (see
note below);

or  (v) case to be reviewed in a further ..... weeks time.

5. TEMPORARY INCAPACITY.

Where the medical report indicates that the situation is as set out in either (i) or (ii)
above the following steps should be followed:-

5.1 A formal interview should be arranged with the employee and, if the employee
wishes, a representative of his/her choice. The findings of the medical report and
the implications should be discussed and any comments the employee and
his/her representative has to make should be considered. If there is any practical
assistance the County Council can reasonably provide then this should be
addressed.

If an employee expresses a wish not to be interviewed or cannot otherwise be
contacted, the employing Directorate/DSO should write to him/her setting out the
findings of the medical report, the implications, the actions which it is intended
will be taken and the options, if any, which may be available to the employee.

5.2 Following stage 5.1 above, and after consultation with the County Council's
Occupational Health Advisor, it may be appropriate in exceptional circumstances
for a second medical opinion to be obtained (if this differs from the first it may be
necessary to obtain a third).
5.3 If further medical opinion has been sought, a further meeting should be held with the employee and his/her representative.

5.4 Where appropriate, the options set out in the Guidelines To Assist Employees Returning To Work Following Sickness Absence should be mutually explored.

5.5 In the case of outcome (ii) above, it is important that the options set out in the Procedure for Assisting Employees who become Disabled are given full consideration. This incorporates the consideration of any reasonable adjustments to the workplace and/or working practices.

5.6 If a mutually acceptable return to work situation is not identified, having considered the medical opinion and nature of illness, the pattern of absence and overall absence record, the operational needs of the service, the impact of the absence on other employees, etc., a Chief Officer may decide that the point has been reached where the matter should be referred for Attendance Panel consideration and decision (for example, this course of action might be considered appropriate in cases of prolonged absence where there is no reasonable prospect of a return to work).

All cases where continuous sickness absence exceeds six months will be reported to an Attendance Panel for consideration.

The procedure for referral to the Attendance Panel and Appeals and Complaints Committee (should the employee appeal against any dismissal decision), is as set out at Annexes 1 and 2 to Appendix J1. If the decision of the Attendance Panel is termination of employment, this must be with proper entitlement to notice.

6. PERMANENT INCAPACITY

Where the medical report indicates that the situation is as set out in either (iii) or (iv) above the following steps should be followed:-

6.1 A formal interview should be arranged with the employee and a representative of his/her choice. The findings of the medical report and the implications should be explained and any comments the employee and/or his/her representative wish to make should be considered. It is important that the employee is made fully aware of the possible implications which may arise should he/she refuse to accept any offer of other comparable (alternative) employment with the authority.

If an employee expresses a wish not to be interviewed or cannot otherwise be contacted, the employing Directorate/DSO should write to him/her setting out the findings of the medical report, the implications, the actions which it is intended will be taken and the options, if any, which may be available to the employee.
6.2 Following stage 6.1 above, and after consultation with the County Council's Occupational Health Advisor, it may be appropriate in exceptional circumstances for a second medical opinion to be obtained (if this differs from the first it may be necessary to obtain a third).

6.3 In the event of the medical report indicating that an employee is permanently incapable of discharging efficiently the duties of the present post or any other comparable employment with the County Council, the Chief Officer will conclude that the employment contract should be terminated by reason of ill-health with due notice.

In cases where employment has terminated as a result of permanent ill-health and the employer is able to certify that the pension criteria has been satisfied and that no comparable employment exists, an employee is able to gain access to the immediate payment of pension benefits with enhancements where applicable.

6.4 In the event of the medical report indicating that an employee is permanently incapable of discharging efficiently the duties of the present post, but fit for other comparable employment with the County Council then the availability of suitable alternative employment should be given full consideration. Any search for other comparable (suitable alternative) employment should only be concluded following a reasonable search period of at least 4 weeks (see Procedure for Assisting Employees who become Disabled {Appendix D4, Annex 7 Addendum III}).

6.4.1 If, after exhausting the agreed procedure for identifying alternative employment for employees who become disabled, no other comparable (alternative) employment has been identified, the employee's contract of employment should be terminated by reason of permanent ill-health with due notice.

In cases where employment has terminated as a result of permanent ill-health and the employer is able to certify that the pension criteria has been satisfied and that no comparable employment exists, an employee is able to gain access to the immediate payment of pension benefits with enhancements where applicable.

6.4.2 Where the employer offers other comparable (alternative) employment and it is refused by the employee his/her contract of employment should be terminated by reason of permanent ill-health with due notice. Any appeal against such a decision will only be accepted where it is submitted on the basis of the employee’s belief that the alternative employment which has been offered is not comparable. Any such appeal will be heard by an Attendance Panel whose decision will be final. There will be no further right of appeal against dismissal.
As regards pension rights in such a case, since the employer is unable to certify that benefits should be payable under Regulation 27 of the LGPS the employee (assuming that he/she has been a member of the scheme for 2 or more years) will become entitled to preserved retirement benefits normally payable from age 60.

However, having already been medically certified as suffering permanent ill-health the employee is entitled to request early payment of preserved benefits on the grounds of ill-health under regulation 31. Importantly, no ill-health enhancement will be added in these circumstances.

N.B. Members of the LGPS have a right of appeal against any decision made by their employer regarding their pension rights. However, any appeal will only be accepted where it is submitted within 6 months of the 'relevant event' (i.e. usually the termination of the employment contract). The right of appeal is firstly to the independent Panel of Appointed Persons for the pension fund, and, if still dissatisfied, a second stage of appeal would be to the Secretary of State for the Environment, Transport and the Regions.

6.5 The decision to dismiss is delegated to Chief Officers in all cases provided that it is supported by appropriate medical opinion.

6.6 The decision to dismiss is also delegated to Chief Officers in cases where comparable (alternative) employment has been sought and is not available or where comparable (alternative) employment has been offered but has been refused.

NOTE

In this context, "permanently incapable" means incapable until, at the earliest, the employees 65th birthday. "Comparable employment" means employment in which, when compared to an employees present employment: the contractual provisions as to capacity either are the same or differ only to an extent that is reasonable given the nature of the employee's ill-health or infirmity of mind or body, and the contractual provisions as to place, remuneration, hours of work, holiday entitlement, sickness or injury entitlement and other material terms do not differ substantially from those of the employee's present employment.
GUIDELINES TO ASSIST EMPLOYEES RETURNING TO WORK FOLLOWING SICKNESS ABSENCE

A. Introduction

When returning to the work environment, particularly following long-term sickness absence, one of the major obstacles an employee may face is stress. This may be caused by a mixture of feelings of guilt (not matter how ill-founded), anxiety, lack of confidence, etc. This can be allayed to some extent if directorate management keep in regular contact with the absent employee to avoid feelings of isolation developing. Also, by encouraging the employee to come into the workplace for an informal chat during the recovery period a feeling of belonging and of being a valued member of the team will be nurtured.

When it is apparent that return to work is likely within the near future, the employee may be offered the facility of having relevant information/literature forwarded for updating purposes (depending on the duties of the job and the nature of the employee’s illness). It should be emphasised, however, that this is entirely voluntary and care should be exercised in ensuring no undue pressure is exerted.

Upon return to the working environment following long term absence, management should be aware that the employee may be feeling fatigued. Care should be taken by both colleagues and line managers to ensure the employee’s return is as welcoming as possible.

In certain instances, these and other considerations may be assisted by a gradual ‘phasing-in’ process to the work situation. These guidelines set out various options which may be considered when the medical practitioners are of the opinion that the employee concerned is not sufficiently recovered to be able to, immediately, resume the full requirements of the post (either hours, duties or both). The personal circumstances of each case and directorate service needs will vary so these guidelines should be used for reference only and, where there is no obvious solution to the particular case in question, further guidance should be sought from the Head of Human Resources.

Any action taken under these guidelines should be mutually agreed between the employee, the medical practitioners and the directorate concerned. Where necessary (usually where the full duties of the post cannot be carried out) the Occupational Health Service should be consulted regarding the limitations of the employee concerned in the short term. It is also important to involve the employee’s General Practitioner so that his/her full co-operation is ensured.

The extent of ‘phasing-in’ should be closely monitored and, if full return to the work situation has not been achieved following (say) a three month period, the employee should be referred to the Occupational Health Service for further advice and guidance. Following this, alternative measures should be considered, e.g. Job Sharing, Alternative Employment as set out in the Procedure for Assisting Employees Who Become Disabled, permanent part-time working, etc.
NOTES.

(a) It is assumed that the individual concerned is a full-time employee (although the principles may also be applicable to part-time employees).

(b) It is assumed that the Occupational Health Service, the individual’s GP and the employee concerned are in agreement with the ‘phasing-in’ arrangement and that these guidelines will be used to facilitate this.

(c) The aim of these guidelines is to set out various ways of facilitating a gradual recommencement of work following an employee’s lengthy absence. It is neither exhaustive nor conclusive and each case should be dealt with on an individual basis. Other procedures are available for reference and it may be that a mixture of these guidelines and say, the Procedure for Assistant Employees who become Disabled may meet the individual and Authority’s needs. The aim should be to manage the situation to gain the optimum solution, not to be too prescriptive about which procedure best fits the situation.

(d) The Director of Resources should be informed of any flexible agreement which would affect pay (options 3 and 4).

B. COURSES OF ACTION AVAILABLE

Option 1

It may, in certain instances, be considered appropriate to allow access to the workplace on a casual basis whilst the employee is on sick leave.

This should only be allowed where it is clear that the employee is unlikely to be any more of a hazard to him/herself and others that if fully fit for work. Such an arrangement would be entirely voluntary and would not affect the payment provisions in the contract of employment. It should be seen purely as recuperative treatment under the direction of the General Practitioner.

It is anticipated that this option would assist in overcoming barriers to returning and would allow the opportunity for the employee to ‘update’ him/herself.

Option 2

The employee is certified as ‘fit for work’ on a conditional basis only and, in agreement with the General Practitioner/Occupation Health Service and the directorate concerned, takes annual leave for 1 or 2 days per week for an agreed period (probably no longer than 4-6 weeks depending upon the amount of leave the individual can utilise for this purpose).

This option is the most popular as employees absent for a lengthy period (usually accrue annual leave which they forfeit if not taken by the 31st March, in any one leave year. The individual circumstances will vary in each case depending upon the
time of year, whether the employee has already exhausted leave entitlement, whether leave is committed anyway, etc.

Option 3

The employee is certified as ‘fit for work’ by the GP on a conditional basis only and, upon return, takes one or two days sickness absence per week.

This arrangement should only be considered when Option 2 is impractical. The periods of sickness absence will be set against the Occupational and Statutory Sick Pay Schemes. This would not be the preferable option where entitlement to Occupational Sick Pay has expired.

Option 4

The employee is certified as ‘fit for work’ on a conditional basis only and attends each day but only works for a proportion of the day according to how he/she is coping each day.

The sick pay scheme is (usually) unaffected by this arrangement – only full days absence count for SSP purposes and only complete half days absence are counted for Occupational Sick Pay purposes. The balance between the time at work and the normal working day would be classified as sickness absence for the purpose of flexitime/time sheet recording.

Option 5

The duties of the post are examined and, in conjunction with the medical practitioners, those duties, which the postholder is capable of carrying out, are isolated. The employee attends either on a full time basis, or in accordance with one of the previous options, carrying out restricted duties. The employee is certified as fit to carry out restricted (light) duties. Where necessary, the General Practitioner or Occupational Health Service should be approached for guidance on the employee’s limitations.

Each case will vary and directorate management will have to assess the extent and the manner in which the residual duties can be covered.

C. BENEFITS

The advantage to the employee in the application of options 2-5 inclusive, besides the gradual ‘phasing-in’ process, is the provisions of the Sick Pay Scheme are either not applicable or are used sparingly. The advantage to the Authority in all options is that at least some productivity is achieved during the ‘phasing-in’ period. The alternative is (usually) non-attendance which could become prolonged if the effects of stress aggravate the condition.

It is assumed that consideration will be made in each case as to the continuation or otherwise of the arrangements for temporary/acting-up cover operating during the absence of the employee.
D. FURTHER CONSIDERATION

Option 6

Temporary Part-time working/ ‘V’ time (Voluntary Reduced Hours)

Where the individual (and the medical practitioner) feels that the hours/pattern of work should be reduced, then part-time working or ‘V’ time may be considered. This would be particularly appropriate where it was to be applied over an extended period of time although, depending upon circumstances, shorter periods should not automatically be ruled out. Application of this option would, of course, be subject to the exigencies of the service and consideration would need to be given as to whether the hours vacated would need temporary cover.

This would (probably) be introduced following exhaustion of Occupational Sick Pay and might be for an extended period of 6-12 months or more. The obvious disadvantage to the employee is that earnings would be at a reduced rate which may affect pension contributions (the Director of Resources should be consulted at the outset).

This would only be applied on rare occasions where it was of benefit to the employee, e.g. to relieve pressure in having to face a full time workload etc., or because of other personal circumstances.

E. RETURN TO WORK

Upon return to work, either on a full or part-time basis, following a lengthy period of absence, management should be aware of the effect the absence may have had on the individual. Care should be exercised in the way in which the employee is received, i.e. arrangements for a briefing on the major events which have happened during his/her absence, relevant reading material, etc. should be readily available. Above all it should be emphasised that it is not expected that too much output will be achieved during the first few days or so until the employee is feeling confident and comfortable in his/her position. Encouragement and support should be given during the settling-in period in an attempt to overcome any barriers the employee may be experiencing following a long absence.

F. FURTHER ADVICE

Further advice is available from the Head of Human Resources.