

MANAGING SICKNESS ABSENCE POLICY AND PROCEDURE

LOGO TBC

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POLICY STATEMENT

Slough Borough Council is committed to promoting the health and wellbeing of all employees. Employee absences have a direct effect on service delivery to the residents of Slough and this represents a significant cost to the Council. This Policy and Procedure aims to maximise employee attendance whilst recognising that there are occasions when employees may be unable to attend work due to their own ill-health.

PURPOSE

The purpose of this Policy and Procedure is to;

- promote supportive and effective management of absence due to ill-health (commonly known as sickness absence)
- ensure any support is considered as early as possible
- provide a clear framework for reporting and recording sickness absence
- ensure fair and consistent management of short and long-term sickness absence across the Council
- ensure that employees have the support they need from their managers, as well as access to support services provided by the Council.

1. SCOPE

- 1.1 This policy and procedure applies to all employees at Slough Borough Council. It excludes employees who are within their probationary period of service (refer to the Probationary Procedure) but the sickness reporting procedures detailed in this policy do apply. This policy does not apply to school-based staff who are under the control of Governing Bodies or to Volunteers and Agency workers.

2. KEY PRINCIPLES

- 2.1 This policy and procedure aims to provide a fair and consistent framework for handling the management of sickness absence and to ensure that employees absent from work due to ill health are treated sympathetically and receive all the necessary support that the council can provide. However, it is recognised that absence from work impacts upon business delivery and may therefore necessitate further action. The loss of working days through sickness absence can be a significant cost to the Council in terms of work not completed or the costs of arranging absence cover. Repeated sickness absence also places additional burden of work on colleagues.
- 2.2 It is important to monitor and manage sickness absence, as the information obtained can help to identify particular patterns and any underlying causes. It also provides senior managers with evidence of how absence impacts on the Council's performance.

- 2.3 This policy will be applied and monitored in accordance with the Council's Equality Policies and Guidance.
- 2.4 Confidentiality must be maintained in relation to information about sickness and absence in compliance with the General Data Protection Regulations and Data Protection Act 2018. Inappropriate access or disclosure of employee data constitutes a data breach. Any breach of the Council's Data Protection and Privacy Policy must be reported and may result in action under the Council's Disciplinary Policy and Procedure. Personal data breaches which are likely to risk the rights and freedoms of others will need to be reported to the Information Commissioner's Office without undue delay or within 72 hours of becoming aware of the breach.
- 2.5 Audio or visual recordings at any stage of the sickness absence procedure will not be permitted unless requested as a reasonable adjustment under the Disability Discrimination Act.

3. CURRENT LEGISLATION - Appendices A and D

- 3.1 The Equality Act 2010 protects individuals against discrimination because of a number of specified protected characteristics, one of which is disability. Disability is described by the Act as a physical or mental impairment that has a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities.
- 3.2 When an employee has a medical condition which may be classed as a disability under the Equality Act, the Council is required to make reasonable adjustments to the employee's working arrangements to help reduce the disadvantage that the employee would otherwise experience. Please refer to Appendix A, Disability and Duty to Make Reasonable Adjustments.
- 3.3 Employees will automatically be protected against discrimination under the Equality Act 2010 from the day they are diagnosed if they have Cancer, HIV or Multiple Sclerosis. Please refer to Appendix A for further guidance in respect of supporting employees who are diagnosed with cancer, HIV or MS or who are experiencing mental health issues. Blindness, severe sight impairment, sight impairment and partial sightedness and severe disfigurements are also automatically protected as disabilities under the Equality Act 2010.

4. SICKNESS AND ANNUAL LEAVE

- 4.1 If the Council is notified appropriately of the period of sickness, the employee is entitled to reclaim the period of annual leave for which they were unwell. In order to reclaim annual leave retrospectively the employee must produce a medical certificate as proof that they were unwell regardless of the number of days the employee was unwell. This must then be recorded on Agresso as annual leave.
- 4.2 Employees are expected to take all of their accrued contractual leave immediately on return from their sick leave. However in exceptional cases it can be agreed that the employee can take their accrued annual leave following their return to work with their line manager's agreement and where service needs allow.

4.3 Where sickness absence straddles two years leave, or if upon returning to work there is not enough time left in the current year to take the outstanding annual leave entitlement, the outstanding annual leave will carry over to the following leave year. As above the timing of this leave will need to be agreed with the employee's line manager who will take into account service requirements. Annual leave must be taken within 18 months of the end of the leave year in which it was accrued where the employee has been off sick.

4.4 Employees who are off sick can request to take annual leave during their period of sickness absence.

5. TIME OFF FOR HOSPITAL / MEDICAL / DENTAL APPOINTMENTS

5.1 Please refer to Appendix D for further guidance and information including Disability Leave to attend medical appointments.

Wherever possible hospital, medical and dental appointments should be arranged either early mornings, late afternoons or during lunch breaks. Appointments within working hours require manager approval for the planned absence and it is expected that employees will work with their line manager to consider how any impact on work can be mitigated. Normally time off for such absences must be made up if not covered by a statutory entitlement. The line manager may reasonably request to see evidence of the appointment(s).

6. PREGNANCY RELATED ILLNESS

6.1 Where an illness is attributable to pregnancy, sickness absence will not be counted towards the trigger of the management of sickness absence. However, any such sickness will be managed in accordance with the sickness policy to facilitate a return to work as soon as possible with any necessary support or adjustment to duties during the pregnancy.

6.2 As required, under the Management of Health and Safety at Work Regulations 1999, written risk assessments should be undertaken regularly throughout the pregnancy. Further information is available in the Council's Maternity Policy and Procedure on SBCinsite (insert link). A referral to the occupational health service for medical advice and support may be required.

6.3 If an employee is on sick leave due to pregnancy related illness on or after the fourth week before the expected week of confinement, their ordinary maternity leave will commence the day after their first completed day of sickness absence. Where a pregnant employee suffers from non pregnancy related sickness absence, these absences will count towards the management of sickness absence as usual.

7. DISABILITY RELATED ILLNESS

7.1 Where an absence is clearly attributable to a disability as defined in the Equality Act (2010) the Council has a responsibility to comply with the requirements of the Act. See Appendix A, Disability and Duty to Make Reasonable Adjustments.

- 7.2 It is recognised that an employee may be living with a disability or may become disabled during the course of their employment. Where absences are related to a disability, the absence will be recorded as a disability related absence.
- 7.3 In cases of disability the line manager should seek advice from the HR Business Partnering Team and Occupational Health before considering action under this policy and procedure. See section 13.3 below.
- 7.4 The formal sickness absence procedure will still apply where absence is related to disability, however no formal action should be taken until advice has been received from Occupational Health. If the advice from Occupational Health suggests that due to the nature of a disability a higher absence level may be likely, including paid time off to attend appointments and/or that allowing a higher level of sickness absence under this policy would be considered as a reasonable adjustment under the Equality Act, the line manager will take the appropriate advised action and only progress to formal action if these advised and adjusted levels are not maintained.

8. HEALTH, SAFETY AND WELLBEING

- 8.1 The Council is committed to protecting the health, safety and wellbeing of employees and recognises that workplace stress is a health and safety issue.
- 8.2 Stress is recognised as “the adverse reaction people have to excessive pressure or other types of demand placed on them”. This makes an important distinction between pressure, which can be a positive state if managed correctly, and stress which can be detrimental to health. The stress threshold varies from person to person.
- 8.3 Employees are responsible for identifying where work-related stress is causing concern and for communicating this to their manager. Managers are responsible for managing the demands placed on employees and where they are alerted to a staff member suffering with work-related stress, ensuring that they carry out a stress risk assessment, see Appendix C, and referring the employee to the Council’s Employee Assistance service (EAP) for support and Occupational Health. The Council is responsible for providing the necessary resources and policies to support those individuals reporting ill-health through work-related stress. Managers should refer to the Council’s Stress at Work Code of Practice ([insert link](#)). The Health and Safety Executive (HSE) website provides comprehensive guidance for both staff and managers in assessing and managing stress.
<http://www.hse.gov.uk/stress/index.htm>

9. ROLES AND RESPONSIBILITIES

Employees’ responsibilities

- 9.1 Employees must ensure they are aware of the Managing Sickness Absence Policy and Procedure and their responsibilities in relation to sickness absence upon commencement of their employment.
- 9.2 Notwithstanding any local arrangements that may be in place, each employee must inform their line manager **verbally by telephone** (not email or text) that they are

absent from work due to ill health or injury before 10am on the first day of absence, or before their usual start time if they follow an alternative work pattern or non-standard hours. The employee should state the reason why they cannot attend work and how long they think the absence will last. They should agree with their manager what will be shared with colleagues regarding their absence taking into account whether there is sensitivity surrounding their absence.

- 9.3 If the relevant line manager is unavailable, the employee should contact another appropriate manager within the Service.
- 9.4 It is expected that the employee will contact the Council personally to report an absence rather than a friend or relative, unless exceptional circumstances prevent the employee from doing so.
- 9.5 It is expected that the employee will report their absence on the first day for self-certificated sick leave and thereafter at intervals agreed with their line manager. If an employee fails to notify any absence in this way, it is possible that their sick pay will be withheld.
- 9.6 This reporting procedure also applies to employees who were not expected to attend the office due to working off-site, from home, in training, or for any other reason.
- 9.7 An employee may work from home where an injury prevents attendance at work but they are able and willing to perform duties at home, with the permission of their line manager, and where they have the necessary IT and other equipment to support this. Homeworking during absence will not be recorded as sickness absence.
- 9.8 The employee is required to provide a medical certificate from the eighth calendar day of sickness absence. This must be sent to their line manager immediately. Failure to do so will result in the employee's pay being withheld.
- 9.9 The employee must make all reasonable attempts possible to be contactable whilst off sick and respond to communication from their manager in relation to their absence and their progress and likely return to work date. Please see 9.19 below for further guidance.
- 9.10 The employee is required to participate in meetings in respect of their absence and attend Occupational Health appointments.
- 9.11 If this is not the case then management will have to continue with the sickness absence management process without the benefit of the advice of OH.
- 9.12 To facilitate their recovery the employee should desist from participating in any activity that may delay or undermine their recuperation whilst they are on sick leave. They must report any other paid work they undertake or volunteering activities during the period they are unfit to attend work for the Council.
- 9.13 The employee is required to report if they are taking any prescription or over the counter medicines which may cause impairment to their work performance and/or any side effects as part of their duty of care e.g. drugs which affect the ability to drive

or operate machinery. They do not need to provide the specific name of the medication.

- 9.14 Each employee, on returning to work after sickness absence of any duration, will be required to complete the Return to Work Form on Agresso on the day of their return or as soon as possible thereafter except where employees do not have access to Agresso and where local alternative arrangements apply.
- 9.15 They will be required to attend a return to work interview with their line manager on the day of their return to work or as soon as possible thereafter and within 7 calendar days. They are required to ensure their manager is aware of any issues or particular needs in relation to their return (if this has not already been done) as soon as they return to work without delay.

Line managers' responsibilities

- 9.16 Managers must ensure their employees are aware of the Managing Sickness Absence Policy and Procedure and their responsibilities in relation to sickness absence upon commencement of their employment.
- 9.17 Managers are expected to manage employee attendance and regularly monitor the absence levels in their team using reports in the Agresso system. All employees' sickness absence must be recorded accurately on Agresso.
- 9.18 Managers should consider a referral to Occupational Health at an early stage of the employee's absence as delays to obtaining expert advice can lead to the prolonged absence of the employee. This is particularly true in cases of mental health issues. Early intervention is critical. Managers should remind the employee of the support that is available through the Employee Advisory Service (EAP).
- 9.19 Managers should agree regular contact and communication with employees who are on long term sickness absence, in terms of type and frequency of contact and to keep a log of this on the Contact Monitoring Form [\(insert link\)](#). They should ensure that all contact with the absent employee is carried out in a supportive manner to avoid the potential for this to be perceived as harassing the employee.
- 9.20 In cases of long term absence, visits may be arranged to maintain contact with an employee. The manager must decide each case on an individual basis and in agreement with the absent employee. As a guide, absences greater than 14 consecutive working days should be considered for a home visit. The Human Resources Business Partnering Team can advise managers before a visit.
- 9.21 In most cases, the manager will be accompanied by a colleague whilst visiting an employee at home, or other agreed meeting place. Care should be taken to ensure that the employee agrees in advance to the visit. This policy does not apply to personal visits from friends.
- 9.22 A Manager may refer an employee to Occupational Health irrespective of whether they have been absent from work due to sickness in order to ensure employee safety and well-being at work.

- 9.23 Managers must conduct a 'Return to Work' interview, on the employee's day of return or as soon as possible thereafter and within 7 calendar days, each time an employee returns to work following a period of absence (irrespective of length of absence). This can be conducted over the telephone if the employee works at different site/from home. It is essential that the manager (or in their absence their line manager/nominated manager) ensures they are fully aware of any issues or concerns in respect of the employee's return to their job and that any necessary action is taken in response without delay.
- 9.24 Managers should consider a number of actions as part of the Return to Work interview. Guidance on conducting Return to Work interviews can be found in section 18 below.
- 9.25 Managers will manage absence according to the Managing Sickness Absence Policy and Procedure in a fair and consistent manner although it is acknowledged that no two cases will be the same and therefore the appropriate action under the policy will be judged on a case by case basis.

Human Resources Responsibilities

- 9.26 The Human Resources Business Partnering Team provide support to line managers in the effective management of employee sickness absence. This includes:
- providing advice and support to employees and managers in respect of periods of long-term absence
 - providing a link to the Occupational Health service (see below)
 - monitoring sickness absence at a corporate level and providing management information.

10. Role of Trade Union Representative:

- 10.1 It is the role of trade union representatives to:
- Support their individual member in minimising absence from work caused by sickness.
 - Ensure an appropriate trade union representative is available at all levels of the procedure should their member wish to be accompanied and to ensure that meetings can occur in a timely manner.
 - Work closely with managers and other groups to make the policy effective at organisational level.
 - Work with their individual member, the manager and occupational health service to facilitate a return to work as soon as possible following a period of sickness.

11. OCCUPATIONAL HEALTH SERVICES – Appendix E

- 11.1 The Council accesses an Occupational Health (OH) service to assist employees and managers with professional work-related health advice. Initial contact with OH must be through the line manager. However, the role of OH is independent from the Council and the OH service is confidential. Please refer to Appendix E for further information in respect of the provision of OH services.

12. CERTIFIED ABSENCE

- 12.1 Employees may self-certify their absence for a maximum of seven consecutive days (including weekends).
- 12.2 A medical certificate **is required** from the eighth consecutive day of sickness absence. There may be exceptional circumstances when an employee is required to obtain a medical certificate from the first day of absence (e.g. on a day of strike action or if in formal sickness absence procedure). In such circumstances if any cost is incurred by the employee for obtaining a medical certificate, this will be reimbursed by the Council.
- 12.3 Periods of more than seven days' absence for which a medical certificate has not been obtained will be considered 'unauthorised absence' and will be dealt with under the council's Disciplinary Policy and Procedure and pay will be withheld save where it has not been reasonable practicable for the Employee to provide the medical certificate. .
- 12.4 Where a medical certificate which states the employee 'is not fit to work' has been issued, the employee may return to work before the certificate has expired, if they are fit enough to do so. Before the employee can return to any work duties, a suitable risk assessment must be carried out, and their line manager should discuss this with them prior to the employee returning to work. If the risk assessment identifies any concerns, the employee should be referred to OH before returning to work. The risk assessment template can be found in Appendix C.

13. RECORDING SICKNESS ABSENCE

- 13.1 Sickness is recorded in days and half days. If an employee works for less than half of their usual working hours for the day then this is recorded as a full day of sickness. If an employee works for more than half of their usual working hours but less than a full day then this is recorded as a half day of sickness.
- 13.2 The Council uses absence triggers to manage and analyse occurrences of sickness absence to provide an indication of when a manager needs to be concerned by absence rates and take appropriate action. The following triggers are used:
- 6 or more days of sickness absence in the previous six months
 - 3 separate periods of absence in the previous six months
- 13.3 The triggers will remain the same for employees with a disability as for those with general sickness absence, subject to the duty to make reasonable adjustments. If the advice from Occupational Health suggests that due to the nature of a disability a higher absence level may be likely, including paid time off to attend appointments and/or that allowing a higher level of sickness absence under this policy would be considered as a reasonable adjustment under the Equality Act, the line manager will take the appropriate advised action and only progress to formal action if these advised and adjusted levels are not maintained.

14. MONITORING ABSENCE

- 14.1 Short term absence is regarded as any period lasting less than 28 calendar days.
- 14.2 Long term absence is regarded as any continuous period of 28 calendar days or longer.
- 14.3 At least once a month, all line managers must review all their employees' sickness absence levels, including those who have triggered the absence procedure and those on long-term sickness absence.
- 14.4 If a referral to Occupational Health is necessary, the manager and employee should consider any advice given and implement where operationally practicable, with support from the Human Resources Business Partnering Team if required.
- 14.5 Managers should make notes of any telephone conversations or details of visits/meetings made to those employees who are absent, together with agreed actions.
- 14.6 The Council will adopt a robust 'case management' approach when dealing with employees who are incapable of working due to ill-health. This means regularly reviewing an employee's absence and state of health or fitness to see whether or not there is any improvement and if the Council can do anything to facilitate the employee's recovery and return to work.
- 14.7 Before taking any formal action in respect of an employee who has had frequent absences from work, the manager should seek advice from the Human Resources Business Partnering Team and check the employee's absence record to assess the number of days' absence, the number of separate occasions of absence and the impact on service delivery. This information will be required to be provided at the formal stages of the sickness absence procedure as evidence.

15. RIGHT TO BE ACCOMPANIED

- 15.1 The employee may be accompanied by a work colleague or trade union representative at any formal meetings that are held to discuss their absence. The Council will consider a request from an employee to be accompanied by a person other than a Trade Union official or work colleague, for example if they have a disability they may be permitted to be accompanied by their support worker. Only one representative may attend.
- 15.2 In the event of a representative being unable to attend on the original date proposed, a convenient date for all parties will be arranged within five working days. The representative must make all reasonable attempts to attend the second date confirmed as any further postponement may not be agreed depending on the circumstances and reason for postponement.
- 15.3 The representative may address the formal meeting and confer with the employee, but not answer questions on their behalf. Reasonable time will be allowed, if

required, for the employee and their representative to confer privately, either within the formal meeting or outside.

16. SICKNESS ABSENCE PROCEDURE INFORMAL ACTION

16.1 The sickness absence procedure is set out in the flowchart attached as Appendix F to this policy.

16.2 Every reasonable effort will be made to support the employee to improve their level of attendance before formal action under this procedure is taken.

17. Return to work interview

17.1 Each employee, on returning to work after sickness absence of any duration, will be required to complete the Return to Work Form on Agresso on the day of their return except where employees do not have access to Agresso and where alternative local arrangements exist.

17.2 They will be required to attend a return to work interview with their line manager on the day of their return to work or as soon as possible thereafter and within 7 calendar days.

17.3 Notwithstanding any local arrangements in place, the line manager will meet with the employee in private to welcome them back to work and discuss the terms of their return. The discussion will include:

- the employee's opinion about their capabilities, for example whether the employee is confident that they are capable of full job performance or only partial performance
- whether the employee's return should be to full-time duties (or their normal working hours) or whether a phased return would be beneficial (See Appendix B)
- whether the employee will be taking any medication after their return to work that might have side effects, for example tiredness
- any special arrangements, additional support or adjustments to the employee's duties, working conditions or environment that would help the employee to reintegrate into the workplace
- an agreed timescale for monitoring improvement in the employee's absence.

17.4 The line manager will ensure that they:

- welcome the employee back
- complete the return to work interview form on Agresso on the day of the employee's return to work or as soon as possible thereafter and within 7 calendar days
- ensure that the employee is fully recovered and decide whether any further support is required from the Council and review their sickness absence record for the past six months
- carry out a risk assessment where appropriate and agree either:

- that no further action is needed or
- agree any further support required and/or
- invoke the formal procedure and set a time for a formal 'absence review meeting'. See section 19 below.

18. Managing Repeated Short Term Absence

- 18.1 The Council is not expected to tolerate an employee's frequent short-term absences indefinitely. It is possible to dismiss the employee for unsatisfactory attendance, provided that the level of absence is sufficient to justify dismissal and that fair procedures are followed prior to dismissal.
- 18.2 The first step to investigating reoccurring short-term sickness absence will be through the informal Return to Work Interview process.
- 18.3 Managers will ensure that the employee understands that the meeting is informal and falls outside of formal sickness action.
- 18.4 The purpose of the Return to Work Interview in these cases will be to:
- highlight to the employee that the level and frequency of their sick absences has caused concern, and outline the impact of those absences on both the business and colleagues;
 - explore with the employee any underlying reasons for their absence level, including possible work-life balance issues, dissatisfaction with their work environment, or any health concerns;
 - arrange a referral to OH if appropriate; and
 - where appropriate, set out that should the employee's attendance not improve, formal action may need to be taken.
- 18.5 The line manager will explain to the employee that their attendance at work will be monitored for a specified period, and that a significant and sustained improvement in their attendance will be expected or formal action may be taken.
- 18.6 A record of this discussion must be made by the manager and include agreed actions. This record is to be kept updated as appropriate.
- 18.7 If a referral to Occupational Health is necessary, the manager and employee will consider any advice given and implement where operationally practicable, with support from Human Resources Business Partnering Team if required.

19. FORMAL ACTION

19.1 Stage One - Absence Meeting

The sickness absence procedure is set out in the flowchart attached as Appendix F to this policy. Consideration should be given to reasonable adjustments to the

timeframe for arranging meetings and exchanging paperwork etc. if the employee requests it on the basis of their disability.

19.2 An Absence Meeting will be required in cases of;

- where sickness absence triggers have been activated and informal action has not resulted in the required improvement
- long term absence (28 days or more) where a return to work date has not been identified with a return to work plan in place.

19.3 The employee will be asked in writing by their line manager to attend an Absence Meeting with them and will be;

- given a minimum of five working days' notice (or less by mutual consent)
- informed of their right to be accompanied
- be advised of the purpose of the meeting
- be given a copy of this policy and procedure
- in cases of long term absence, with the employee's agreement, the meeting (and any further formal meetings in this procedure) may take place at their home or other mutually agreed venue.

19.4 It is important that up to date Occupational Health advice on the employee is available. Therefore a further referral should be made to the Occupational Health Advisor when necessary before the meeting takes place to ensure that all current available information can be taken into account by the line manager before a decision in respect of action following the Stage One review.

19.5 The line manager will make copies of all documentation available to the employee and their trade union representative or fellow worker/support worker at least three working days before the meeting. If the employee intends to bring a representative or fellow worker/support worker they must notify the manager. If the employee intends to present any documents, these must be given to the line manager at least three working days before the meeting.

19.6 The line manager will present any relevant documents such as file notes and Occupational Health reports. The employee should be allowed to respond, raise points about any documents and information presented and should also be given the opportunity to ask questions.

19.7 The line manager must have considered any reasonable adjustments or medical interventions to enable the employee to return to work or sustain acceptable levels of attendance and be able to fully explain their decision making process in respect of this.

19.8 The employee and their trade union representative or fellow worker/support worker should make every effort to attend the formal meeting. If the employee is unable to attend, the formal meeting will be rearranged. If the employee continues to be unavailable to attend on the further date offered, the line manager may make a decision on the evidence available. The employee's trade union representative or fellow worker/support worker may attend the formal meeting in such circumstances and will be allowed the opportunity to present the employee's case in the employee's

absence. The employee will also be allowed to make written submissions in such a situation.

- 19.9 At the conclusion of the meeting and within 5 working days following the meeting the line manager will confirm the actions required to improve the situation. For example, by making adjustments to the working environment or making a further referral to OH. They will confirm the review period of up to 6 months and will diarise monthly interim review meetings with the employee.
- 19.10 The employee will be advised that improvements in their absence and in cases of long term absence an indication of an early return to work date are required or the matter will be progressed to Stage Two under this procedure.
- 19.11 Stage Two can be brought forward if at the interim review meetings in Stage One there is not satisfactory improvement made.

20. Stage Two – Formal Meeting

- 20.1 A Stage Two Formal Meeting will be required when the improvements specified in the Stage One Absence Meeting have not been achieved or sustained by the employee in the review period. The employee will be asked in writing by their line manager to attend a Stage Two Formal Meeting and will be given a minimum of five working days' notice (or less by mutual consent) and will be informed of their right to be accompanied.
- 20.2 The meeting will follow the same format as the Stage One Absence Meeting. See section 19. The meeting will be chaired by the line manager. The line manager will present any relevant documents which may be referred to at the formal meeting, such as file notes and Occupational Health reports. Copies of all documentation will be made available to the employee and their representative at least three working days before the meeting. If the employee intends to bring a representative or fellow worker/support worker they must notify the manager.
- 20.3 The employee and trade union representative or fellow worker/support worker should make every effort to attend the formal meeting. If the employee is unable to attend, the formal meeting may be rearranged. If the employee continues to be unavailable to attend on the further date offered, the chair may conclude that a decision will be made on the evidence available. The employee's trade union representative or fellow worker/support worker may attend the formal meeting in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.
- 20.4 **First Written Warning**
- 20.5 If it is determined by the line manager at the Stage Two Formal Meeting that there has been insufficient improvement in the employee's attendance, **a First Written Warning** will be issued, preferably communicated to the employee in person at the conclusion of the meeting where possible and confirmed in writing by the chair within five working days of the decision. A copy of the written decision will be placed on the employee's HR file. The written warning will also advise the employee of their right of

appeal to their Service Lead within 5 working days of the date of the written warning. The Service Lead will undertake a paper based review of the appeal grounds and basis for the decision to issue a warning and confirm the outcome of the appeal to the employee in writing within 15 working days.

- 20.6 The first written warning will state that a significant and sustained improvement in the employee's attendance level is required and that the warning will have a time limit of up to 6 months. This warning will also make it clear that failure to achieve and sustain the necessary improvements sufficiently during the period is likely to result in progression to the Stage Three Formal Meeting.
- 20.7 Stage Three can be brought forward if at the interim review meetings in Stage Two there is not satisfactory improvement made.

21. Stage Three Formal Meeting

- 21.1 A Stage Three Meeting will be required when the improvements specified in the Stage Two Meeting have not been achieved or sustained by the employee in the review period. The employee will be asked in writing by their line manager to attend a Stage Three Formal Meeting and will be given a minimum of five working days' notice (or less by mutual consent) and will be informed of their right to be accompanied
- 21.2 The meeting will follow the same format as the Stage One Absence Meeting. See paragraph 20. Copies of all documentation will be made available to the employee and their representative at least three working days before the meeting. If the employee intends to bring a representative or fellow worker/support worker they must notify the manager.
- 21.3 The employee and trade union representative or fellow worker/support worker should make every effort to attend the formal meeting. If the employee is unable to attend, the formal meeting may be rearranged. If the employee continues to be unavailable to attend on the further date offered, the manager may conclude that a decision will be made on the evidence available. The employee's trade union representative or fellow worker/support worker may attend the formal meeting in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

22. Final Written Warning

- 22.1 If it is determined at the Stage Three Formal Meeting that there has been insufficient improvement in the employee's attendance, **a Final Written Warning** will be issued, preferably communicated to the employee in person at the conclusion of the meeting where possible and confirmed in writing by the chair within five working days of the decision. A copy of the written decision will be placed on the employee's HR file. The written warning will also advise the employee of their right of appeal. For details of the Appeal process see section 25 below.
- 22.2 The final written warning will state that a significant and sustained improvement in the employee's attendance level is required and that the warning will have a time

limit of up to 6 months. This warning will also make it clear that failure to achieve and sustain the necessary improvements sufficiently during the period is likely to result in progression to the Stage Four Hearing.

22.3 Stage Four can be brought forward if at the interim review meetings in Stage One there is not satisfactory improvement made.

23. Stage Four – Hearing (Dismissal stage)

23.1 The Hearing panel will normally consist of three officers;

- Service Lead (Service Director if the employee is a Service Lead)
- A Senior Manager (level 8 and above)
- A Human Resources representative

23.2 The line manager will present the management case for dismissal to the Hearing Panel.

23.3 The employee will be asked in writing by their line manager to attend a Stage Four Hearing and will be given a minimum of five working days' notice (or less by mutual consent) and will be informed of their right to be accompanied. They will be advised of the panel members.

23.4 The employee will be allowed to respond, raise points about any documents and information presented and will also be given reasonable opportunity to ask questions. If the employee intends to present any documents, these must be given to the chair of the panel at least three working days before the meeting. If the employee intends to bring a representative or fellow worker/support worker they must notify the chair of the panel. These timeframes are subject to reasonable adjustment for an employee with a disability.

23.5 When all the evidence has been heard and explanations given, parties will withdraw and the panel will decide on the outcome of the formal meeting. The panel should take account of all the information presented, the employee's attendance record, actions taken in any previous similar case, the explanations given by the employee and/or the employee's representative and whether dismissal is reasonable in the circumstances. The panel must consider all the points set out in section 24 below – Considerations at Dismissal Stage.

23.6 The chair may also adjourn the formal meeting where they feel further investigation into the matter is warranted before reaching a decision.

23.7 Where it is decided to terminate the employee's contract of employment, the employee will be given notice in accordance with the contract of employment.

23.8 The decision should be communicated to the employee in person at the conclusion of the meeting where possible and confirmed in writing by the chair within five working days of the decision.

24. CONSIDERATIONS AT DISMISSAL STAGE

- 24.1 **Before reaching a decision to dismiss an employee for sickness absence** it is essential that the panel thoroughly consider whether the employee has a disability as covered by the Equality Act and if so, that the Council's duty as an employer has been properly exercised. A failure in the duty by the Council to make reasonable adjustments will be committing an act of unlawful discrimination. See Appendix A Disability and Duty to Make Reasonable Adjustments.
- 24.2 **Short term absence:** If it is determined there has been insufficient improvement, or that the improvement has not been sustained during the period of the final written warning, the employee may be dismissed.
- 24.3 **Long term absence:** There are occasions where an employee who has been absent from work due to long-term sickness will not become well enough to return to work within a reasonable timescale and where ill-health retirement is not an option. The decision on whether to dismiss an employee must take account of whether or not, in all the circumstances, the Council can reasonably be expected, in light of the requirements of the business, to wait any longer for the employee to recover and resume working. This may depend upon such factors as the degree of disruption or difficulty that the employee's long-term absence is causing the Council.
- 24.4 In these circumstances, the panel will ensure they have considered:
- the employee's absence record to assess whether or not it is sufficient to justify dismissal;
 - up-to-date medical advice including Occupational Health reports, GP and specialist medical reports
 - if reasonable adjustments could be made to enable the employee to return to work
 - if there are any other jobs that the employee could do in the Council
- 24.5 The dismissal notice will be confirmed in writing within five working days of the decision and will also advise the employee of their right of appeal, see paragraph 26 below.

25. APPEAL

- 25.1 Appeals against a final written warning or dismissal must be made in writing to the employee's Service Lead within five working days of written confirmation of the formal meeting outcome. This timescale can be extended by mutual agreement.
- 25.2 An Appeal Hearing is not a re-hearing but will focus on the grounds for appeal provided by the employee.
- 25.3 The letter from the employee should state one or more of the following grounds with detail to support:-
- the decision was based on evidence that did not support the conclusion
 - a failure to follow procedure had a material effect on the decision
 - the action taken was too severe or inconsistent with previous decisions

- new relevant evidence has become available

25.4 Upon receipt of an appeal, a formal appeal hearing will be convened by the chair of the appeal panel to hear the details of the appeal. The appeal hearing will normally be held within 15 working days following receipt of the written appeal. The employee has a right to be accompanied.

25.5 Appeals will usually be heard by:-

- A Service Lead from a different Directorate (Service Director if appeal is against a dismissal)
- Senior Manager (L8 and above) independent from section or service concerned
- HR representative

25.6 If the employee appealing is a Service Lead or a Director they must appeal to the CEO.

25.7 The chair of the appeal hearing will convey their decision to the employee at the conclusion of the hearing where possible. The decision at the appeal is final and will be confirmed in writing, usually within five working days.

26. ILL HEALTH RETIREMENT

26.1 There may be occasions when it is in the best interests of an employee to take early retirement on the grounds of ill health, if due to their ill health they are permanently incapable of carrying out their duties. Each case will be dealt with on an individual basis, through close working with Human Resources, Occupational Health, the employee and/or their representative. Please refer to Appendix G for further information in respect of Ill Health Retirement and the process.

27. REDEPLOYMENT

27.1 At all stages of the formal procedure the line manager may agree to consider redeployment of the employee following advice from OH. Any possible redeployment will be handled under the Council's Redeployment Policy. The line manager will confirm the timeframe that will apply for the employee to secure redeployment and that failure to find alternative employment may lead to the employee's dismissal under this procedure.

28. INDUSTRIAL INJURY

28.1 An industrial injury is an accident or incident that has occurred at the place of work or as a result of an employee's work. An employee must always report an industrial injury to their line manager at the time of the incident. If the employee believes their sickness absence is as a result of an injury or incident at work, then they must let their manager or nominated person know. The manager will make any investigations and take appropriate action to prevent such an incident from occurring again.

28.2 The manager may refer the employee to the Occupational Health Service for advice.

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APPENDIX A

Disability and Duty to Make Reasonable Adjustments

Only a person who meets the Equality Act's definition of disability has the protected characteristic of disability. If an employee is unsure if they meet the definition of a disability then they should seek advice from their GP.

Physical or mental impairment includes sensory impairments such as those affecting sight or hearing. Long-term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person's life. An impairment that does not last a continuous period of 12 months but which is recurring or likely to recur during the Employee's lifetime can also be a disability. Substantial means more than minor or trivial. Impairments that do not currently have a substantial impact on the Employee's ability to carry out day to day activities can amount to a disability if they are degenerative.

Where a person is taking measures to treat or correct an impairment (other than by using spectacles or contact lenses) and, but for those measures, the impairment would be likely to have a substantial adverse effect on the ability to carry out normal day to day activities, it is still to be treated as though it does have such an effect. This means that 'hidden' impairments (for example, mental illness or mental health conditions, diabetes and epilepsy) may count as disabilities where they meet the definition of the Act.

Cancer, HIV infection and multiple sclerosis are deemed disabilities under the Act from the point of diagnosis. In some circumstances, people who have sight impairment are automatically treated under the Act as being disabled.

Duty to make reasonable adjustments

The duty to make reasonable adjustments requires employers to take positive steps to ensure that disabled people can access and progress in employment. This goes beyond simply avoiding treating disabled workers, job applicants and potential job applicants unfavourably and means taking additional steps to which non-disabled workers and applicants are not entitled.

The duty applies to employers of all sizes but the question of what is reasonable may vary according to the circumstances of the employer. Part 2 of the Statutory Code has more information about good practice in making reasonable adjustments in different work situations.

Discrimination against a disabled person occurs where an employer fails to comply with a duty to make reasonable adjustments imposed on them in relation to that disabled person.

The employer should discuss with the employee appropriate adjustments such as:

- a phased, gradual return to work (See appendix B)
- altered hours (for example, varied start and finish time)
- flexible hours

- time off for treatment
- amended duties, and/or
- workplace or equipment adaptations
- relocating place of work.

What if the employer does not know that the worker is disabled?

For disabled workers already in employment, an employer only has a duty to make an adjustment if they know, or could reasonably be expected to know, that a worker has a disability and is, or is likely to be, placed at a substantial disadvantage compared with those who are not disabled..

The employer must, however, do all they can reasonably be expected to do to find out whether this is the case. What is reasonable will depend on the circumstances. This is an objective assessment. When making enquiries about disability, employers should consider issues of dignity and privacy and ensure that personal information is dealt with confidentially.

The Act does not prevent a disabled person keeping a disability confidential from an employer. But keeping a disability confidential is likely to mean that unless the employer could reasonably be expected to know about it anyway, the employer will not be under a duty to make a reasonable adjustment.

If an employer's agent or employee (such as an occupational health adviser) knows, in that capacity, of a worker's or applicant's disability, the employer will not usually be able to claim that they do not know of the disability and that they therefore have no obligation to make a reasonable adjustment. Employers therefore need to ensure that where information about disabled people may come through different channels, there is a means, suitably confidential and subject to the disabled person's consent, for bringing that information together to make it easier for the employer to fulfil their duties under the Act.

Taking reasonable steps

The following are some of the factors which might be taken into account when deciding, what is a reasonable step for an employer to have to take:

- Whether taking any particular steps would be effective in preventing the substantial disadvantage;
- the practicability of the step;
- the financial and other costs of making the adjustment and the extent of any disruption caused;
- the extent of the employer's financial or other resources;
- the availability to the employer of financial or other assistance to help make an adjustment (such as advice through Access to Work); and
- the type and size of the employer

Ultimately, the test of 'reasonableness' of any step an employer may have to take is an objective one and will depend on the circumstances of the case.

The Act does not permit an employer to justify a failure to comply with a duty to make a reasonable adjustment. However, an employer will only breach such a duty if the adjustment in question is one which it is reasonable for the employer to have to

make. If an employer does not comply with the duty to make reasonable adjustments they will be committing an act of unlawful discrimination. An Employer usually is not entitled to require the Employee to pay for the reasonable adjustment.

Reasonable adjustments in practice

Chapter 6, Sections 6.32 to 6.35 of the Statutory Code of Practice on Employment provides information on good practice in carrying out reasonable adjustments, including examples of adjustments that would be considered reasonable for the purposes of the Act.

- Remove or alter a physical feature or provide a reasonable means of avoiding such a feature where it puts a disabled person at a substantial disadvantage compared to those who are not disabled.
- Provide an auxiliary aid (which includes an auxiliary service) where a disabled person would, but for the provision of the auxiliary aid, be put at a substantial disadvantage compared to those who are not disabled.

The duty to make reasonable adjustments applies in recruitment and during all stages of employment, including dismissal.

Provision, criterion or practice

This is not defined by the Act but should be construed widely so as to include, for example, any formal or informal policies, rules, practices, arrangements or qualifications including one-off decisions and actions.

Example

An employer has a policy that designated car parking spaces are only offered to senior managers. A worker who is not a manager, but has mobility impairment and needs to park very close to the office, is given a designated car parking space. This is likely to be a reasonable adjustment to the employer's Car Parking Policy.

Substantial disadvantage

The Act says that a substantial disadvantage is one which is more than minor or trivial. Whether such a disadvantage exists in a particular case is a question of fact, and is assessed on an objective basis.

The purpose of the comparison with people who are not disabled is to establish whether it is because of disability that a particular provision, criterion, practice or physical feature or the absence of an auxiliary aid disadvantages the disabled person in question. Accordingly, and unlike direct or indirect discrimination, under the duty to make reasonable adjustments there is no requirement to carry out a like for like comparison with a comparator or comparator group whose circumstances are the same or nearly the same as the disabled person's.

Considerations for employers and employees regarding Cancer, HIV & MS

If the employee tells their employer they have been diagnosed with cancer, HIV or MS, the employer should:

- talk to the employee early about whether they want their condition to be kept confidential, or what they want and don't want their colleagues to know, who will be told and who will do the telling. These must be the employee's decisions.
- explain that colleagues may be more understanding about absences and any changes in work arrangements if they know what's happening.
- talk to the employee about 'reasonable adjustments' which would help them.
- make it easy for the employee to talk about the time off or 'reasonable adjustments' they need - for example, for medical appointments, treatment or recuperation - and try to have regular chats so they know if anything needs to change.

If talking to colleagues, concentrate on the impact the employee's condition may have on people and projects at work, and how best to talk to the employee, but avoid giving personal details.

Make sure the employee is clear about their employment rights, including sick pay and any other benefits they may be entitled to. Also make sure the employee does not feel pressured into returning to work too soon.

Particular considerations concerning Cancer

Cancer is the most common progressive condition, but often is not terminal. With improvements in how to prevent and treat the different types of cancer, more people are surviving the disease and living with it as a chronic or long-term condition. Many people can be cured.

There are a range of cancer charities offering support, including Macmillan Cancer Support which offers specific advice for employers and employees on dealing with cancer in the workplace including:

- talking about cancer.
- understanding the impact of cancer treatment, side-effects which can often be harder to deal with than expected and the effect on the employee's work.

To find out more, go to <http://www.macmillan.org.uk/> to access its guidance for employers supporting staff with cancer. Macmillan also offers advice to employees affected by cancer, including information on their rights at work.

Particular considerations concerning HIV

HIV is a virus mostly transmitted through sex. It weakens ability to fight infections and disease. Early diagnosis and treatments enable most people to live an active life and avoid developing AIDS, when the body can no longer fight life-threatening infections. There's no cure but most employees with HIV say the condition has no or little impact on their working life, and are only likely to need infrequent 'reasonable adjustments', such as flexible hours, working from home occasionally or time off for a

clinic appointment. But, there can be two particular times when an employee's HIV is more likely to impact on their work life: when they are diagnosed; and when they start or switch treatment. HIV medication can have side-effects such as fatigue, nausea and disturbed sleep.

National Aids Trust research has found that almost four in ten employees with HIV do not tell their employer about their condition, sometimes because they are concerned how the employer or colleagues might react.

For almost all jobs, an employee does not have to tell their employer about their HIV diagnosis. However, there are specific conditions for HIV positive healthcare workers who perform exposure-prone procedures, for example, dentists, surgeons and midwives. People living with HIV can work in these roles but they have to be on HIV treatment, with an undetectable viral load, and regularly monitored by their HIV and occupational health physician.

An employee or job applicant with HIV should consider telling their employer about their condition if the job involves travel abroad to a country which restricts entry, bars entry or deports people with HIV.

Someone with HIV cannot join the Army, Navy or Air Force. However, if someone is diagnosed while in a military role the armed forces may try to redeploy them to a non-front line role.

To find out more, see charity National Aids Trust's guides including HIV at Work: Advice for employers, and Advice for employees living with HIV on <http://www.lifewithhiv.org.uk/online-guides>

Particular considerations concerning MS

Multiple Sclerosis, generally, is not fatal. There's no cure and people can be affected very differently. Many different symptoms can range from fatigue to paralysis. Some can come and go, or be present all the time. Treatments, exercises and devices can mean that life expectancy is similar to that of most people. However, rare forms can involve complications, such as infections, which can be fatal.

An employee must tell their employer about their MS if:

- it may affect health and safety in the workplace.
- they drive for their job and have a restriction on their licence because of their MS, or they drive a vehicle such as a taxi, lorry or bus, or they are covered by their employer's driving insurance, or MS may affect their ability to drive safely.
- they work in the armed forces.

Not everyone with MS needs extra support in the workplace, and many who do only need small 'reasonable adjustments' - for example, moving their desk away from a radiator, or allowing them to avoid commuting during the rush hour.

An employer should avoid comparing the needs of one employee with MS against the needs of another because their symptoms can be very different. People with MS can have relapses, when they develop new symptoms or old symptoms come back. These can come on over a few hours or days, and can last from a few days to many weeks. In a relapse, an employee may be unable to work. Also, during a relapse or when they are first diagnosed, encourage the employee to not make any major decisions about work - such as changing jobs, reducing hours or stopping work completely.

To find out more, visit The **Multiple Sclerosis Society's website** to access its guidance for employers and employees. The Disability Law Service also works on behalf of the Multiple Sclerosis Society and offers the **MS Legal Advice Line**.

Mental Health and the Workplace

How can I support someone with Mental Health Issues?

Many people who have mental health problems dread returning to work after they have been off sick because of their mental health. It can be awkward to know what to say when people have been ill, especially if it has never been talked about, or if their behaviour was unusual when they were unwell.

Whether you are a manager or a colleague, keeping in touch and letting someone know you care is a great way to prevent awkwardness:

- Remind them of the Employee Assistance service they can access.
- Ask the person who is off work what they would like their colleagues to be told. Remind colleagues that the image the person presents to the world – perhaps through social media – might not reflect their reality.
- Invite them out when employees are spending leisure time together – they may decline, but still appreciate being asked.
- Send cards and call your colleague if you would normally socialise with them – just as you would if they had any other health problem.
- Give them a call a few days before they return to work and ask them if there's anything you can do (maybe give their desk a tidy, agree to meet for coffee and walk in together, or go for lunch on the first day).
- Greet them when they are back – they are unlikely to want a fuss made, but you shouldn't shy away from talking about their absence. Ask them how they are, and if there's anything you can do to support them from here onwards.
- Help them get back into work routines – ask if they would like your support or attendance at meetings.

How can I support someone day to day?

Many people who experience mental health problems get through their difficulties and return to life exactly as it was. We can't always assume this. Like with many long-term health conditions, people with mental health problems may need to make long term or permanent changes in their lives or jobs to manage. Colleagues may need your support on an ongoing basis – don't assume that they need special

treatment but equally don't assume that everything is fine just because some time has passed:

- Check in with colleagues informally in the office to see how they are doing, and, if you manage someone, offer them the chance to discuss their mental health at supervision sessions.
- You could offer to be a mentor or coach, or just a friendly support on an ongoing basis.
- You can ask if there's anything you can do to support a person to manage their condition. They might, for example, ask you to help them spot signs that they may miss that indicate that they may be becoming unwell.

Line manager responsibilities

As a line manager, you play a crucial role in supporting employees that experience distress and/or mental health problems. You are the first official contact between the employer and the individual and you can set the tone and set an example.

Managing absence and return to work

As a manager, you will be responsible for administering an absence. In mental health-related absence, the longer a person is away, the less likely they are to return. Early and appropriate contact can make returning easier. Early intervention for example with Occupational Health will confirm whether there are reasonable adjustments you should make. Sometimes, a phased return to work can be helpful, with someone working a few hours a day and building back up to working their contracted hours. See Appendix B, Phased Return and Alternative Duties.

If you're unsure what is reasonable, ask for advice from the HR Business Partner team.

APPENDIX B PHASED RETURN AND ALTERNATIVE DUTIES

To facilitate a return following a period of sickness absence, it may be appropriate for an employee to resume work on a gradual basis or with some adjustment made to their duties or working arrangements to support their return. This will be discussed with the line manager, depending on the nature of their illness, in the following circumstances:

- Where the employee is as yet, unfit to carry out their normal duties but capable of undertaking modified or restricted duties in the same area of work on a temporary basis, whilst recuperating fully.
- Where the employee is fit to continue with their normal duties but at reduced or different hours, or at a different place of work for a limited period.

Each case will be determined individually and managers should seek advice from the HRBP team and OH services in cases where disability applies.

There may be occasions where a combination of the above may be appropriate. The exact details of the phased return arrangements, including review periods, will be agreed between the employee and their manager before the employee returns to work. Consideration will be given to any medical advice available and if there is any dispute regarding the details of the adjustments agreed, additional medical advice may be needed.

During the period of phased return if a reduction in hours/duties has been agreed, it is expected that normally as a minimum, the employee is able to fulfil 50% of their contractual hours / duties when they initially return to work and that they will be fully rehabilitated to their normal contractual hours/duties within a period of four to six weeks. During this period the employee will receive full pay and will be treated for pay purposes as if they were working their full contractual hours.

At the end of the agreed phased return the manager will meet with the employee to confirm their return to their normal working arrangements, or in exceptional circumstances where Occupational Health, General Practitioner or Consultant support a longer period agree to extend the rehabilitation arrangements. However, these arrangements must not exceed 6 weeks in total. If the employee, Occupational Health, General Practitioner or Consultant requests that they continue working reduced hours/duties beyond 6 weeks, as a temporary measure to assist their return, then it is expected that annual leave is taken to support their absence. Alternatively, in agreement with the manager, a temporary reduction in hours and associated pay reduction may be considered. In some circumstances it may be necessary to refer the employee back to Occupational Health for further advice.

Alternative Duties

There may be occasions when Occupational Health, General Practitioner or Consultant suggests that it may be appropriate for an employee to undertake work outside of their area of work for a specific period of time as an aid to their

rehabilitation and return to normal substantive post. The employee must possess the necessary skills to undertake such alternative work.

Consideration should be given by the manager to this proposal and the availability of any suitable work. The exact details of the programme, including review periods will be agreed between the employee and their manager based on medical advice given before the employee returns to work. Any agreement reached should be in writing.

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**APPENDIX C
RISK ASSESSMENT TEMPLATE – to be added**

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APPENDIX D TIME OFF FOR HOSPITAL / MEDICAL / DENTAL APPOINTMENTS

Disability Leave

It is essential that managers ensure that disabled employees are not unlawfully discriminated against for a reason which relates to their disability. Managers must take account of this when dealing with an absence due to an employees' disability. This includes consideration of reasonable adjustments at all stages of this procedure and will normally include paid time off to attend hospital and medical appointments.

Hospital Appointments

If the hospital appointment is part of a long term health issue then the employee should discuss the matter with their line manager to determine whether the time will be classified as disability leave, sick leave, or whether annual leave, flexi-time or other working arrangements could be used or whether the hours need to be made up.

Cancer Screening

Paid time off will be granted to employees for the purpose of cancer screening. Screening involves testing people for signs of the disease. Examples of cancer screening include breast, cervical, testicular and bowel.

IVF Treatment

There is no statutory entitlement to paid time off for IVF treatment. However employees are encouraged to discuss the treatment process with their manager, Occupational Health and the Human Resources Business Partnering Team so that arrangements for paid or unpaid leave can be agreed on a case by case basis. All cases will be treated individually and confidentiality will be maintained at all times. It is recognised that there can be emotional pressure when undergoing IVF treatment and the Council recognises the potential anxiety and distress which individuals may suffer during the process, and wishes to support employees who decide to undertake fertility treatment, or whose partner is undergoing the treatment, as much as possible through the process. Absence resulting from the side effects of such treatment will not be classified as pregnancy related sickness absence. The sickness absence category should be discussed and agreed between the individual and the line manager. Pregnancy discrimination is prohibited under the Equality Act 2010 from the time when the fertilized ova are implanted into a woman to the end of her pregnancy, or, where implantation fails, for a period of 2 weeks from this date. Therefore this policy will apply in respect of pregnancy related illness during this period. Treating a woman who is undergoing IVF treatment unfavourably can amount to sex discrimination if it does not amount to pregnancy discrimination.

Ante-Natal Care

Employees and Agency Worker with 12 weeks qualifying service in the same job as specified under regulation 8 of the Agency Worker Regulations are entitled to paid time off during working hours to attend antenatal appointments. These may be with a GP or midwife, hospital clinics or appointments for scans and tests, or parent craft classes recommended by a GP or midwife.

As much notice as possible should be given about the appointments. Wherever possible these should be made for the beginning or end of the working day.

Employees may be asked to produce appointment cards or some other confirmation of the appointment to show their line manager.

For Employees or Agency Workers who are parents of the expected child; the spouse or civil partner of a pregnant woman; living in an enduring family relationship with a pregnant woman or a potential applicant for a parental order under the Human Fertilization and Embryology Act 2008 are entitled to time off to accompany a pregnant woman to antenatal appointments but up to a maximum of 2 occasions during the course of the pregnancy and on each of those occasions the maximum time off shall be 6.5 hours. The appointment must be made on the advice of a registered medical practitioner, registered midwife or registered nurse. The Employee or Agency Worker must give notice of their application specifying that they have a qualifying relationship with the pregnant woman or expected child; the purpose of taking the time off is to accompany a pregnant woman to an antenatal appointment; the appointment has been made on the advice of a registered doctor, registered midwife or registered nurse and date and time of the appointment.

Elective / Cosmetic Surgery

Whilst there is no statutory right to paid sick leave for elective/cosmetic surgery, it is recognised that there can be emotional pressure when undergoing medical procedures which can impact on the mental health/wellbeing of the employee. Employees choosing to undergo such procedures should discuss the matter with their line manager in the first instance and agree how this time off will be taken / recorded (i.e. annual or unpaid leave). Managers should consider on a case by case basis.

Transgender /Gender Reassignment

Please refer to the Transgender Policy on SBCInsite and seek advice from the Human Resources Business Partnering Team.

APPENDIX E

Occupational Health Services

Occupational Health will provide the following;

- give advice to employees and managers on issues relating to health at work
- give an opinion based on medical evidence on the employee's ability to carry out their specific role under their contract of employment
- provide a report to the manager to confirm their opinion
- assess an employee's return to work date
- advise line managers if any reasonable adjustments are recommended to facilitate an employee's return to work and identify whether counselling or any other specialist services are recommended to facilitate an employee's return to work
- liaise with the employee's primary medical practitioners (GP/consultant etc.) if deemed necessary by OH or requested by the employee
- provide reports to the pension scheme administrators in respect of ill-health retirement applications
- provide advice to the employee and help the employee to understand their illness and how to minimise its impact on their ability to work.

At any time during an employee's sickness absence they may be required to visit OH (and are required to attend) or may be asked by OH for their consent to obtain a health report from their GP (under the Access to Medical Reports Act 1988).

OH will usually only provide the manager with advice using general terms without needing to pass on confidential medical advice. It is therefore not necessary for the employee's manager to have sight of confidential medical reports. Confidential medical information will only be passed to the employees' manager with the full knowledge and consent of the employee.

If an employee does not consent to OH obtaining a specialist medical report or withdraws consent for the use of this information by OH, then OH will inform the manager of this.

OH will advise a manager on an employee's fitness for work but can give a more informed opinion if more detailed specialist medical advice, where appropriate, has been sought. Where consent has not been given to OH by the employee to obtain or use the specialist medical advice, the manager will be made aware of the limitations of their advice.

The Council reserves the right to take the opinion of the Occupational Health provider even if their opinion is not the same as that of the GP.

APPENDIX F
Sickness Absence Process flowchart (to be added)

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APPENDIX G

ILL HEALTH RETIREMENT – to be updated

Requesting Ill Health Retirement Procedure (IHR) Initial Stage

Either the employee requests that the option of ill health retirement is explored, or this is requested by the line manager (the employee would need to consent to this being explored).

- If the employee does not consent, then the formal procedure should be followed and IHR cannot be investigated.
 - If the employee requests that IHR is explored, they should complete the “Request for Ill health retirement form”
 - The manager should respond by sending the “Letter acknowledging request for ill health retirement” to the employee
 - If the request comes from either the employee or the manager then Form HM4101 Ill Health Retirement Referral Form should be used
 - The manager should also complete Part A of the Ill Health Retirement Certificate for a Current Employee Form and submit this with the Form HM4101.
- Upon completion of above forms, please liaise with HR before sending to OH.

Occupational Health’s role

- On receipt of the IHR request and Form HM4101, Occupational Health arranges to meet with the employee to carry out an update to functional assessment and will also obtain up to date medical reports from the GP/specialist.
- Occupational Health will form a preliminary view on whether IHR would be applicable and the likely tier that would apply. This will be communicated to the manager and a copy of this written advice will be offered to the employee. See link.
- On receipt of further medical evidence from the GP/Specialist, OH will refer the case to an Independent Medical Adviser for their advice (This can be done even if OH does not think IHR is relevant, e.g. if the employee disagrees and insists their application is pursued).

Independent Medical Advisor’s role

The Independent Medical Adviser (IMA) reviews the case and writes to OH with their advice. If the IMA agrees that ill health retirement is applicable they will complete Part B of the Ill Health Retirement Certificate for a Current Employee Form and return the same to OH.

- This will confirm which tier of the ill health retirement is applicable.
- OH will then write to the manager informing them of the outcome, copy to go to the employee.

The Outcome

- On receipt of the letter from OH the manager will write to the employee and arrange a meeting to discuss outcome of the IMA assessment.
- If ill health retirement has been confirmed, the line manager will write to the employee (link using the letter confirming termination on the grounds of ill health retirement). Contractual notice will be paid in accordance with the employee's contract.
- The employee has the right to appeal against the outcome of the IMA's assessment and the appeal is made to ????
- If ill health retirement has been refused the manager will write to the employee using the appropriate template letter.
- There are no direct pension costs to the employer in cases of ill health retirement only.

DRAFT