

Worcester City Council

SICKNESS ABSENCE MANAGEMENT POLICY & PROCEDURE

DATE:

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Contents

1	Purpose.....	3
2	Scope.....	3
2.1	Exclusions.....	3
3	Sickness Absence Notification Procedure.....	3
4	Return to Work.....	4
4.1	Phased Return to Work.....	5
5.	Sick Pay.....	5
6.	Medical and dental appointments.....	5
7.	Annual leave.....	6
8.	Disabled employees.....	6
9.	Absences relating to mental stress or physical strains.....	6
10.	Working during absences.....	7
11.	General.....	7
12	Managing Sickness Absence.....	7
12.1	Managing Short-term sickness absence procedure.....	7
12.2	Managing Long-term sickness absence procedure.....	10
12.3	Termination of Employment – Long Term Sickness absence.....	11
13	Appendix 1.....	12
13.1	Recording Sickness Absence Procedure.....	12

1 Purpose

If our employees are absent from work and unable to perform their duties, the quality of the services we provide will suffer. The purpose of this policy is to provide a framework to manage and support employees who are unable to work due to illness and either assist them back to work, or find an alternative solution as quickly as possible.

2 Scope

This Policy applies to all Worcester City Council employees.

2.1 Exclusions

Absence during the **probation period** will be dealt with under the probation process and is outside the scope of this policy, although absence during probation will count towards the 12 month rolling trigger points.

Individuals who take **unauthorised absence**, or who **abuse the sick pay** provision (including taking sick leave when not genuinely medically sick, for instance to care for dependants, which should be requested under annual or special leave) or **fail to follow the notification procedures** will be dealt with under the disciplinary procedure as appropriate and may have their pay stopped for the period of unauthorised absence.

3 Sickness Absence Notification Procedure

Failure to follow this procedure may result in sick pay being delayed or withheld and may lead to action under the Disciplinary procedure for failing to follow procedure.

At any time the Council may seek medical opinion as to an employee's state of health. Employees may be required to undergo a medical examination by a doctor nominated by the Council. Employees may not be allowed to return to work following sickness absence until the Council's nominated doctor has declared them fit to return. Where employees are declared fit by the Council's nominated doctor they must return to work.

Managers should keep in touch with staff during sickness absence to understand any areas of work which need to be covered and to offer support to sick employees as required.

An occupational health assessment referral should be arranged for all employees after 4 weeks of continual absence.

Employees who are absent from work due to sickness or injury must:

- i. **notify the Council via the dedicated sickness reporting process (see Appendix 1)** by 9:30 am (or at least half an hour before the beginning of their shift if service area requirements so justify) on their first day of absence. A telephone call from the employee is required on the first notification and to

maintain contact throughout the absence (although in exceptional circumstances whereby the employee is unable to phone, the employee may allow a family or friend to phone through their notification on their behalf);

- ii. give a **reason for the absence** and an anticipated **return date which will be** agreed with the Council's sickness reporting contact and to maintain regular contact, if the return date is not known). If unable to return to work by the date stated the employee must again notify the Council via the agreed notification process;
- iii. ensure they submit a '**Fit note**' that states **not fit for work** to People Services, issued by a doctor (officially entitled 'Statement of Fitness for Work For social security or Statutory Sick Pay') to cover for sickness absence of more than **seven calendar days. In addition, the Council reserves the right to request a Doctors Certificate when it is not required for SSP purposes, reimbursing the cost if necessary.**
- iv. If follow-on certificates are issued by their doctor, each day must be covered without any break, otherwise pay will be affected. It is the employee's responsibility to make a doctor's appointment to get continuation certificates before the previous one expires and to contact the agreed notification process to make them aware that they will remain off sick. Doctors are not obliged to back-date certificates.

4 Return to Work

On return to work from sickness absence every employee is required to report their return to work in accordance with the sickness reporting process. In addition employees are required to **attend a return to work meeting with their** line manager and a Return to Work Meeting must be held for all absences in accordance with the notification process.

The line manager is responsible for ensuring that the return to work meeting takes place as soon as practicable on an employees return to work, but no later than 7 calendar days (If the line manager is absent beyond this period another appropriate manager should hold this meeting to avoid unnecessary delay in ensuring the employee has the support in place to return to work).

This meeting should:

- i. enable early identification of any issue which can impact on performance or the ability to attend work
- ii. establish what, if any, support can be offered to the employee at the earliest opportunity (including Occupational health referral, Counselling, light duties or reduced hours for phased return etc.)

- iii. ensure the employee is aware of Worcester City Council's expectations regarding attendance and the operation of this policy
- iv. review the sickness history to identify if a trigger has been reached or if there are any absence patterns that are of concern e.g. absences on specific days in the year (e.g. birthday), absences starting or ending adjacent to non-working days.

4.1 Phased Return to Work

A Doctor may state that an employee may be fit for work taking account of the following advice:

"If available, and with your employer's agreement, you may benefit from:

- a phased return to work;
- altered hours;
- amended duties;
- workplace adaptations."

If this is recommended, agreement must be made with the employee and their line manager on how to proceed with advice from People Services as appropriate.

5. Sick Pay

In accordance with the Collective Agreement to modify terms and conditions of employment 2012, sick pay is payable during absence from 1 April 2013 as follows:-

During 1st year of service	1 month at 90% pay (and after completing 4 months service) 2 months half pay.
During 2 nd year of service	2 months pay at 90% and 2 months half pay
During 3 rd year of service	4 months pay at 90% and 4 months half pay
During 4 th & 5 th year of service	5 months pay at 90% and 5 months half pay
After 5 years service	6 months pay at 90% and 6 months half pay

6. Medical and dental appointments

It is expected that every effort must be made to arrange such appointments outside normal working hours (see also flexible working hours guidelines). Where this is not possible, they should be booked at the start or end of the shift to minimise disruption to the working day. Reasonable notice must be given to the line manager, who may also request appointment cards/letters in order to grant paid time off as appropriate.

7. Annual leave

Employees who fall ill whilst on pre-booked annual leave will be credited for the leave booked with effect from the date the doctor's certificate was signed.

During periods of ill-health, employees will continue to accrue annual leave. Statutory leave as defined in the Working Time Directive may be carried forward to the following year if it is not taken due to sickness absence. Annual leave in excess of statutory leave will be lost.

Employees who are ill during public holidays or fixed days cannot re-claim annual leave.

Where an employee has exhausted their sick pay, it may be authorised that they take and be paid for annual leave during sick leave.

8. Disabled employees

The Council is committed to supporting and retaining its disabled employees, and employees are encouraged to disclose any disability they have to their line manager/People Services to access support.

Disabled employees may be referred to Occupational Health for advice on what adjustments the Council can make to their responsibilities, equipment or workplace, to enable them to carry out the functions of their post, such adjustments to be made in consultation with the employee, and the effectiveness monitored over a period of time.

Disability Leave: Disability Leave is a form of reasonable adjustment in line with the requirements of the Equality Act 2010 and enables employee's to take **paid time away from work for pre-planned appointments or treatments, related to an employee's disability, that help maintain health and wellbeing. Disability Leave is available to employees who are registered as disabled with the Council and must be agreed by the line manager and People Services for a specified reason. This is paid time off and should not be used for disability related sickness absence.** Where a disabled employee's condition is likely to lead to frequent, short-term sickness absences, this will be taken into consideration when monitoring attendance.

9. Absences relating to mental stress or physical strains

Where an absence occurs relating to stress or strain the employee will be given the opportunity as soon as possible to be referred to the approved Counsellor or Physiotherapist. All such referrals are to be arranged by People Services and any costs are to be met by the Council.

If employees are absent relating to stress they should be referred to Occupational Health at the earliest opportunity.

10. Working during absences

Employee's should not undertake any work – paid or otherwise – during their absence unless this is agreed by the Head of Service, although it is likely that such agreement will be withheld. If therapeutic work is recommended the Council should be informed and will provide it where possible.

11. General

If an employee abuses the sickness scheme or is absent on account of sickness due or attributable to deliberate conduct prejudicial to recovery or the employee's own misconduct or neglect or active participation in professional sport or injury while working in the employee's own time on their own account or for private gain or for another employer sick pay may be suspended.

12 Managing Sickness Absence

There are two types of sickness absence, short term and long term (continuous over four weeks) absence, each requiring a different approach. Formal warnings for sickness absence may be issued for both short term and long term sickness absence and may be considered together.

12.1 Managing Short-term sickness absence procedure

Absence in a 12 month rolling period which meets **any** of the following criteria and does not exceed 4 weeks continuous absence will be dealt with under the short term sickness absence procedure:

- i. Four periods of absence, **or**
- ii. A total of six working days or more, **or**
- iii. Absence trends/patterns such as around non-working days, birthdays etc.

12.1.1 Sickness absence meetings

When an employee hits a trigger point, there will be a sickness absence meeting where the line manager will consider all the individual circumstances in accordance with the procedure set out below. As a formal warning for sickness absence may be issued as an outcome of the meeting, the procedure must be carefully adhered to.

The Line manager will invite the employee to a meeting, in writing giving a minimum of 3 working days notice. The letter will remind them of their right to be accompanied (by a trade union representative, colleague or an official employed by a trade union).

The meeting will be led by the line manager, and will have the purpose of fact finding, where possible establishing the cause of any absence and to offer assistance based on individual circumstances. The line manager will cover the following matters as appropriate during the meeting:

- i. Identify the frequency and reason for the absences and ensure that the employee is aware that their absence record may be giving cause for concern, and highlighting the impact on the rest of the team or authority.
- ii. Advise the employee to seek medical attention to determine if there are grounds to consider that there might be an underlying medical problem, or refer to OH as appropriate,
- iii. Give consideration to personal problems which may be causing the absences and offer possible ways of helping the employee to resolve them,
- iv. If any temporary or permanent redeployment or reduction of duties/reasonable adjustment, or ill health retirement is required,
- v. Explore whether the absences may be due to a work related injury; a disability defined within the Equality Act; or pregnancy, and take advice from the HR lead as appropriate,
- vi. Agree a **reasonable time** within which the employee's attendance can be assessed over the following 3 months,
- vii. Confirm whether or not a formal warning for sickness absence will be issued on this occasion, providing reasons for the decision and indicate the next stage of the procedure if attendance does not improve, what constitutes satisfactory improvement will depend on the circumstances of the case, but in most cases an employee will be deemed to have improved sufficiently if they would not have reached the trigger points defined in 12.1 during the most recent 12 months at the time of the review.
- viii. Indicate that if sickness absence continues at a high level then the employee may be excluded from participating in any additional hours/overtime

The line manager must **confirm in writing** the outcome of the meeting within 7 working days and place a copy on the personnel file. The letter must include:

- details of who attended the meeting and when it was held,
- what was discussed and the actions agreed for both employee and line manager with relevant timescales (no longer than 3 months although a subsequent meeting can be held within this period if absence continues to be poor);
- confirmation on whether or not the outcome is a **formal warning for sickness absence** providing reasons for the decision and clarification that further absence may result in the employee receiving subsequent formal warnings for sickness absence, clarifying that 3 formal warnings for sickness absence in a rolling 12 month period will result in a sickness hearing which could result in dismissal. (Warnings under the Sickness Absence Management procedure and the Disciplinary procedure will remain separate and will not affect each other).

Where attendance has not improved following the first meeting (for further sickness absence that is over and above the initial trigger), the manager will convene another meeting as above but subsequent meetings will be accompanied by the relevant HR lead. Meetings will be followed up in writing within 7 working days, issuing a 1st, 2nd and 3rd formal warning as appropriate.

12.1.2 Short-term sickness hearing which could lead to dismissal

- i. Following the issue of 3 formal warnings in a rolling 12 month period, the employee will be invited to a sickness hearing which could lead to dismissal, in writing:
 - Stating that they may be accompanied by a trade union representative, colleague or an official employed by a trade union.
 - Informing the employee that as a result of the meeting, their contract of employment may be terminated stating that the reason for dismissal is likely to be “some other substantial reason” and will usually be incapability due to persistent intermittent absence as a consequence of ill health although it may also be “Capability due to underlying health issues”.
 - And provided with a copy of the line manager’s report for consideration at the dismissal meeting.
- ii. The Dismissal meeting will be chaired by either a Head of Service or other manager delegated with the authority to dismiss and must be accompanied by a member of People Services.
- iii. The purpose of the meeting is to consider all information in relation to the absences, including Occupational Health advice. If appropriate the hearing manager may ask for further medical advice.
- iv. The hearing manager should consider whether or not alternative employment, reasonable adjustments to the current role or ill-health retirement could and have been recommended prior to the decision to terminate employment.
- v. If it is decided following the meeting that the contract of employment will be terminated, then the employee must be given due notice/pay in lieu of notice and any other additional outstanding payments e.g. annual leave.
- vi. The outcome of the meeting must be communicated in writing, within 7 working days, by the hearing manager to the employee. The letter must state that the employee has a right of appeal which must be submitted in writing with full reasons to the Managing Director within 10 working days of the receipt of the written notification of the dismissal.

12.2 Managing Long-term sickness absence procedure

Long term sickness absence is defined as a period of medically certified sickness which is continuous for at least four weeks.

12.2.1. When an employee is suffering a long term illness, Line Managers are expected to exercise judgement in respect of the appropriate timing of Occupational Health referrals and the scheduling of meetings based on the individual circumstances (e.g. it may not be appropriate to make arrangements if the employee is seriously ill or could not reasonably be expected to attend). People Services can advise as appropriate.

12.2.2. Normally after four weeks, or earlier if long term absence can be predicted, the manager should invite the employee to a meeting, accompanied by the relevant HR lead. This must be confirmed in writing and may take place either at the employee's home or workplace if their medical condition allows (the employee may be accompanied by a trade union representative, colleague or an official employed by a trade union).

The meeting will

- i. Help to gain further information relating to the absence,
- ii. Inform the employee that they will be referred to either the national 'Fit for Work' scheme or Occupational Health to establish the likely length of the absence and the long term effect on capability in relation to job performance and attendance at work,
- iii. Address, where possible, any needs or concerns of the employee,
- iv. Determine whether the employee may qualify as having a disability under the Equality Act 2010,
- v. Consider offering appropriate alternative work if this would enable the employee to return to work

12.2.3. On receipt of the Occupational Health report a further meeting will be arranged with the line manager, HR lead, employee and their representative if requested. The purpose of the meeting will be to discuss the report and to give consideration to the options available which may include:

- i. The employee being expected to be fully fit for their duties on an on-going basis in the near future, setting a possible start date and possibly including a phased return to work and/or temporary modification of duties for an interim duration,
- ii. The employee being capable of undertaking modified duties, giving consideration to making reasonable adjustments within the workplace (e.g. amended duties, part-time working, re-deployment, re-training)

- iii. If no improvement can be expected in the short term, stating when reviews will take place and whether the employee requires further medical treatment or referral

12.2.4. Should the individual be unable to fulfil the duties of a post within the Council for the foreseeable future, considering whether an application for retirement on the grounds of ill health is recommended (an Occupational health doctor will be required to assess the case and any ill health retirement recommendations will be subject to the discretion of the employer). The employee must provide a contact point during the absence and maintain contact with their line manager, keeping them informed of any changes in condition and at regular intervals. The manager will be able to contact the employee directly or via family members or other intermediaries (e.g. Occupational Health) depending on the medical condition and advice. If an employee refuses to maintain contact sick pay may be withheld and the Disciplinary procedure may be invoked.

12.2.5. Dependant on circumstances, the employee may not be allowed to return to work until Occupational Health has declared them fit to return. Where declared fit an employee must return to work.

12.2.6. A formal warning for sickness absence may be issued where appropriate for staff who are absent for more than 4 weeks. This must be confirmed in writing to the employee, clarifying that 3 formal warnings in a rolling 12 month period may result in dismissal.

12.3 Termination of Employment – Long Term Sickness absence

12.3.1. Where it is established through medical opinion that there is no possibility of the employee returning to work within a reasonable period of time and/or where none of the previous options are appropriate, or 3 formal sickness absence warnings in a 12 months period have been issued, the employee's contract may be terminated. During the consultation process, if the employee disagrees with the medical opinion, he/she should be given a reasonable opportunity to obtain a second opinion. They will be responsible for any cost involved and must make the resulting report available to the Council if it is to be taken into account.

12.3.2. During the consultation process, the employee must be given time to consider the various options. For the individual concerned it is a potentially traumatic process and needs to be handled with sensitivity and compassion.

12.3.3. If termination of employment on grounds of incapacity is given, notice will be based on full pay, even if the sick pay entitlement is exhausted, or pay in lieu of notice may be given (N.B. Dismissal may take place before sick pay expires).

12.3.4. Employees have a right of **appeal** against termination of employment on health grounds and must be advised of that right. Any appeal must state the detailed reason to the Managing Director within 10 working days of receipt of the letter confirming the decision.

13 Appendix 1

13.1 Recording Sickness Absence Procedure

Firstcare has been contracted to manage absence reporting on behalf of Worcester City Council with effect from 1 April 2018.

