



## Policy for Managing Sickness Absence

### **Policy statement**

Fawley Parish Council is committed to supporting the wellbeing of employees and promoting attendance at work. This policy outlines the framework for managing sickness absence, and the steps managers and employees must take to ensure attendance remains at an acceptable standard.

### **Scope**

All employees

### **Policy outcomes**

The aims of the policy are to:

- improve and maintain attendance through early intervention by employees and managers
- manage absence positively
- define the mechanism for managing unacceptable standards of absence

### **Check which policy to use**

Failure to report sickness absence or provide a statement of fitness for work should be addressed using the Managing Misconduct and Disciplinary Policy within the Employee Handbook and may result in withholding of pay.

Sickness absence which is not genuine or is an unauthorised absence should be addressed using the Managing Misconduct and Disciplinary Policy.

Poor performance due to health problems should be addressed through this policy.

Concerns raised by an employee about a decision or action taken when applying the policy should be addressed through the meetings or appeal process set out in this policy. A separate workplace issue (e.g. grievance) should not be raised.

## Key definitions

**Frequent short term sickness absences** - are periods of absence that are not continuous and are normally short term. The absences may be for both unrelated and related reasons. The impact of the absence is that an employee is unable to attend work regularly and consistently.

**Long term absence** - is where an employee is unable to return to work over an extended period (28 calendar days or more on one occasion) due to an underlying medical condition/s

**Health conditions without sickness absence** - situations where an employee's underlying medical condition has an impact on their ability to fulfil the full duties of their role (including circumstances where it is not affecting their attendance) can be managed under the **long term absence** process. These concerns may originate as a performance concern but further review might indicate they are more appropriately managed under the Managing Absence Policy.

A person has a **disability** for the purposes of the Equality Act 2010 if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

**Calendar days** - where reference is made to calendar days, these are defined as Monday to Sunday, including Bank Holidays or Public Holidays. This is consistently applied irrespective of an employee's work pattern.

**Statement of fitness for work** – also known as a 'fit note' is usually issued by a medical professional. The note will say the employee is either 'not fit for work' or 'may be fit for work' with recommendations on how this can be achieved.

**Fawley Parish Council continuous service** - earliest date when an employee began local government continuous service.

## What the law says

The **ACAS statutory Code of Practice** on discipline and grievance 2009, issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992, sets out the principles for managing sickness issues in the workplace.

The code provides the following general principles to deal with managing sickness issues fairly:

- ensure the employee is informed of the sickness absence concerns

- address issues within a reasonable timeframe and do not unreasonably delay meetings, decisions or confirmation thereof
- act consistently
- carry out any necessary investigations to establish the facts of the case
- meet with the employee
- allow employees to be accompanied at any formal meeting
- an employer must form a reasonable belief
- a panel to act "in good faith"
- decide on appropriate action
- reason for dismissal to be both genuine and reasonable
- allow the employee to appeal against any formal decision made

**Equality Act 2010** – prohibits discrimination in the workplace and in wider society by reducing inequality. This means that some people with a protected characteristic may be treated more favorably in order to achieve equality. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation

Where an employee meets the definition of **disability** under the **Equality Act 2010**, the Act requires employers to consider adjustments to working practices and environments and make them where reasonable. This is so that an employee with a disability is not disadvantaged in comparison to a non-disabled employee.

Pregnancy and maternity are protected characteristics under the **Equality Act 2010**. Therefore, a woman should not receive unfavorable treatment in relation to her pregnancy or illness suffered by her as a result of that pregnancy.

The management of annual leave during sickness absence is governed by recent case law. European and UK courts have ruled that:

- a worker can accrue and request to take statutory annual leave during sick leave, and
- on termination of employment, an employee is entitled to claim for pay in lieu of untaken statutory annual leave

In order to bring a claim for unfair dismissal, under section 108 of the **Employment Rights Act 1996**, an employee must have at least two years continuous employment. There is a specific section in this policy that relates to employees with less than two years continuous employment.

**Exceptions**

The following should be excluded when managing sickness absence concerns;

- absence due to pregnancy related illness
- compassionate leave
- time off for dependents
- any other statutory leave

**Part One****Framework for the Management of Sickness Absence**

To be used in all situations of sickness absence

**Part Two****Managing Absence – frequent short term absence**

To be used as appropriate

**Part Three****Managing Absence – Long Term Sickness Absence**

To be used as appropriate

## **Part One - Framework for the management of sickness absence**

The Council recognises that there will be times when employees are unable to attend work due to sickness. The following section outlines an employee's responsibility to manage their own absence as well as the manager's responsibilities to manage the absences of their team effectively and consistently.

### **Reporting**

An employee who is sick whilst at work must report this to their manager immediately.

An employee who is sick and unable to attend work must contact their line manager or department, via telephone, normally at least one hour prior to their start time. If unable to do so, a relative or friend can report the absence on the employee's behalf.

If there are post specific absence reporting procedures these should be followed.

### **Recording**

The employee is responsible for recording their sickness absence and the reason using the Blip App. This should be recorded as soon as possible, ideally on the first day of sickness, and must be within 7 days.

Once the employee has returned to work, they are responsible for updating their record using the Blip App. They must enter the date they return to work, or were fit to return to work (if this date was not a normal working day). To avoid payroll errors the employee must do this as soon as possible.

Where an employee leaves work early due to sickness having worked

- over half the shift/ working day - this will be recorded as a half day's sickness absence
- less than half the shift/ working day - this will be recorded as a full day's sickness absence

### **Statement of fitness for work**

Absence for 7 calendar days or less – employees can self-certify.

Absence for 8 calendar days or more – employees are required to provide a Statement of Fitness for Work from their medical practitioner.

Employees who fail to provide a Statement of Fitness for

Work or fail to provide it in a timely manner may result in the loss of pay and may be disciplined.

**Keeping in touch during sickness absence**

An employee is expected to contact their Manager on each day of absence, up to 7 calendar days, after which you should make weekly contact unless other arrangements have been agreed.

**Return to work following a longer period of absence**

Once fit to return, employees must discuss their return to work with their manager to enable return arrangements to be made.

In situations of long term absence, employees are required to provide a minimum of **5 calendar days** notice of their return to allow their manager to put in place arrangements to support their return. Where an employee fails to provide this and there is insufficient time to plan for the return, the manager can instruct the employee to use annual leave or lieu time whilst arrangements for their return are put in place.

**Return to work discussions**

Return to work discussions are proven to be one of the most effective interventions in managing sickness absence.

The manager is responsible for undertaking a return to work discussion upon an employee's return following sickness absence.

The employee does not have a statutory right to be accompanied at a return to work discussion.

**Referral to Occupational Health**

A referral to Occupational Health can be made where there is a concern about an employee's health and/or sickness absence levels. An employee is required to attend Occupational Health appointments and to co-operate with the referral.

The purpose of a referral is so that Occupational Health can provide a medical opinion and advice to assist in the overall management of an employee's attendance. Occupational Health may recommend how to support an employee back to work or to remain at work. The manager is responsible for deciding whether recommendations or alternative action/s can be put in place.

**Temporary adjustments / phased return to work**

A phased return to work is where temporary adjustments are made to an employee's role to enable an earlier return to work than would otherwise be possible.

The manager is responsible for deciding whether adjustments can be accommodated.

A phased return lasts for a maximum of 4-6 weeks. During this time normal contractual pay arrangements apply and therefore the employee must record their return to work using the Blip App in the normal way. The employee's sickness absence ends the day before any phased return to work period begins.

If a phased return to work cannot be accommodated, the employee remains on sickness absence until they are fully fit and adjustments are no longer required. Alternatively, the employee may wish to take annual leave for some or all of this period.

**Permanent adjustments**

Where Occupational Health recommends a permanent adjustment, this will be considered under reasonable adjustments.

Having reviewed the adjustments required if the adjustment cannot be accommodated, this will be managed under the final case review.

**Adjustments to support an employee to remain at work**

Adjustments can also be considered in order to support an employee to remain at work and avoid sickness absence. This may be appropriate where an employee has recently developed a medical condition or an existing condition has worsened.

**Sick pay**

Details of sick pay entitlements are contained within the employee's terms and conditions of employment.

Whilst recorded as off sick, an employee can view in the Blip App the date their pay is anticipated to reduce.

Temporary Injury Allowance and Permanent Injury Allowance are administered by the Pensions Agency and funded by the Council. An employee does not need to be a member of the pension scheme to receive it.

Where an employee is prevented from attending work

because of contact with infectious diseases they are entitled to receive normal pay. Any period of sickness (incapacity) preceding this are paid under the sick pay scheme.

**Sickness during annual leave or bank holidays**

An employee, who is sick during a period of annual leave or on a bank holiday, can have their leave reinstated when covered by a Statement of Fitness for Work.

Once approved by their line manager, the employee must amend/delete their annual leave request using the Blip App. This will automatically recalculate the employee's remaining annual leave quota.

If they have not already done so, the employee must then record their sickness absence using the Blip App.

**Annual leave and bank holidays**

Occupational annual leave and bank holidays accrue during sickness absence, including during periods of half or nil pay.

An employee can choose to substitute a period of sickness absence for paid annual leave. Alternatively, where it has not been possible to take annual leave due to sickness absence, leave can be carried forward into the next leave year.

Unused annual leave due to sickness absence is lost where it was operationally possible to take within the year in which it was accrued (or within the following leave year), but the employee did not do so and always after 15 months of the employee's return to work.

The application of these principles vary depending upon the different contractual arrangements in place for those employees.

## **Accidents at work**

Employees who injure themselves as part of their duties must report this to their manager immediately and fill out the relevant accident report (on Brightsafe).

Certain absences resulting from an accident or incident at work must be reported under the 'Reporting of Injuries, Diseases and Dangerous Occurrences Regulations' 1995 (RIDDOR). The Line Manager must also notify the Clerk and the relevant procedures must be followed.

In the first instance, the employee is responsible for recording their absence as sickness absence, using the appropriate reason, in the normal way.

The employee may be entitled to injury pay (rather than sick pay).

## **Pregnancy related absence**

Pregnancy related sickness absence (occurring within the duration of an employee's pregnancy) will be:

- recorded on SAP as sickness absence – pregnancy related illness
- paid according to the employee's sick pay entitlement
- excluded when reviewing the employees attendance record

The employee is responsible for reporting and recording pregnancy related absence and obtaining a Statement of Fitness for Work in the normal way.

Pregnancy related sickness absence occurring during the last four weeks before the expected week of childbirth will automatically trigger the start of the employee's maternity leave.

**Instruction to  
leave work on  
health grounds**

We reserve the right to exercise our duty of care, using reasonable and proportionate measures, and can instruct an employee to leave work where we believe an employee is unwell or has a condition which causes concern and presents a risk to the employee and/or others. This will be confirmed as soon as possible in writing.

The employee must see their medical practitioner as soon as possible.

Where the medical practitioner issues a Statement of Fitness for Work, the employee is responsible for recording this period of sickness absence using the Blip App. The absence is paid as sickness absence.

Where a medical practitioner does not issue a Statement of Fitness for Work, the employee must notify their manager who will confirm in writing that the employee is not required to record a period of sickness absence and instead continues to receive full pay for the duration of the instruction to remain at home.

**Planned  
operations**

Employees are responsible for notifying their manager in advance of a planned operation. They must give the reason for the absence, the anticipated duration, the predicted recovery period and any possible changes in their ability to undertake their role upon their return.

Employees undergoing non-medical cosmetic surgery are expected to request that the surgery (along with the recovery period) is scheduled in non-working time where possible.

Where operations take place during working time, the employee is responsible for recording their sickness absence using the Blip App in the normal way.

**Working whilst off  
sick**

Employees must not work during the normal working hours of the role from which they are signed off sick.

## **Part Two - Managing Absence - Frequent short term absence**

High levels of frequent short term absence make it difficult to run a service effectively and efficiently. This section provides the procedure through which such absence is managed. It is hoped that using the procedure will lead to improvements in attendance but where this does not happen the employee may be dismissed on the grounds of medical capability.

### **Trigger point**

The frequent short term absence trigger points are:

- 6 working days/shifts\* over two or more occasions in the previous 12 month period\*\*
- whenever the level, frequency or pattern of absence causes a concern due to operational impact

*\* pro rata for part time employees and those in their first year of service*

*\*\*the previous 12 month period is calculated from the first day of the current absence.*

An employee can view their position in respect of corporate absence trigger points using the Blip App.

When a trigger point is met, the manager must decide whether to:

- continue to monitor the absence record or
- progress into the stages of the policy

### **Formal action concerning a trade union representative**

Where there are concerns involving an employee who is a trade union representative, advice must be sought from the Clerk before taking formal action.

### **Policy stages**

There are five possible stages:

- informal monitoring discussion
- formal stage one
- formal stage two
- formal stage three – may result in dismissal
- appeal

There is a shortened procedure for employees with less than 2 years continuous service.

### **Informal monitoring discussion**

The manager must hold an informal monitoring discussion with the employee to inform them that their absence is causing concern, improvement is required and to offer support to achieve this.

The employee has no statutory right to be accompanied at the monitoring discussion. However, the employee can contact their union, where they are a member, for advice.

### **Formal stage meetings**

The manager must hold a formal meeting with the employee at each formal stage of the policy.

The manager will write to the employee to invite them to a formal meeting.

The manager and employee are required to exchange details of any significant issues and relevant papers in advance of the meeting. Management documents will normally be supplied with the invitation letter.

Dependent upon the nature and complexity of the absence concern, the manager may produce a management report.

The employee, or their companion, must submit their information to arrive at least **4 calendar days** before a meeting.

The employee has a statutory right to be accompanied at a formal meeting by a trade union representative or a Parish Council work colleague.

### **Outcome of a formal meeting**

The chair of the meeting will decide how the attendance concerns will be managed.

The employee may receive a written warning that their attendance must improve. The warning will be kept on their file for a specified number of months.

At a stage three meeting the employee may be dismissed on the grounds of medical capability with contractual notice. Redeployment may also be considered where there are medical grounds to do so.

At the meeting the chair must advise the employee of:

- the outcome
- their right of appeal
- the date by which an appeal must be submitted, which is within **10 calendar days** starting from the day after the meeting.

The details of the meeting and the outcome are confirmed in writing within 5 working days.

**Review meetings**

Following the issuing of a written warning, the manager must hold frequent review meetings with the employee.

The employee has no statutory right to be accompanied at these review meetings.

**Right of appeal**

The employee has a right to appeal a formal outcome. The employee must have specific grounds for making an appeal and they must identify supporting evidence.

An employee must ensure their written appeal is received by the chair within **10 calendar days** of the formal stage meeting, starting from the day after the meeting. The full reasons for the appeal must be given along with the supporting evidence.

**Appeal meeting**

The chair of the meeting will write to the employee to invite them to an appeal meeting.

The employee has a statutory right to be accompanied at a formal appeal meeting by a trade union representative or a Fawley Parish Council work colleague.

The manager and employee are expected to provide details of any significant issues and relevant papers in advance of the meeting. Management documents will normally be supplied with the invitation letter.

The employee, or their companion, must submit their information to arrive at least **4 calendar days** before a meeting.

**Outcome of an appeal meeting**

The chair of the meeting will decide whether the employee's appeal is upheld or not.

The chair of the meeting must advise the employee of the outcome at the meeting and confirm this in writing within 5 working days.

**Less than two years continuous service**

The same principles apply when managing short term sickness absence for employees with less than two years continuous service however the procedure is shorter.

There are three possible stages:

- informal monitoring discussion
- formal stage – may result in dismissal
- appeal

The line manager will raise a sickness absence concern promptly and through a monitoring discussion with the employee.

A formal meeting will take place when the manager identifies that an employee's attendance continues to fall below the standard required following a monitoring discussion. The same principles for the formal stage meeting apply as before.

The chair of the meeting will decide how the attendance concern will be managed.

The employee may receive a written warning of the need to improve their attendance. The warning is kept on their employment record for a specified number of months.

The employee may be dismissed on the grounds of medical capability with contractual notice.

An employee only has the right to appeal against a dismissal decision, not against a warning. The same principles for the appeal stage meeting apply.

At each stage of the review process, we will always consider any underlying health reasons for the absences.

### **Part Three - Managing Absence – Long term sickness absence**

Long term sickness absence requires supportive and sensitive management balanced with the need to deliver services. This section provides the procedure through which such absence will be managed. It is hoped that using the procedure will support employees to return to work / remain in work. Where the employee is too unwell to return or the impact on their performance is unsustainable, a decision regarding the employee's future employment will be made.

#### **Trigger point**

The long term trigger point is:

- 28 calendar days or more on one occasion

When the trigger point is met the manager must commence the review stage.

#### **Formal action concerning a trade union representative**

Where there are concerns involving an employee who is a trade union representative, advice must sought from the Clerk before taking formal action.

#### **Policy stages**

There are three possible stages:

- review stage
- mutual agreement OR final case review
- appeal (only following a final case review)

There is a shortened procedure for employees with less than two years service.

#### **Review stage**

The manager will review the employee's absence throughout their period of sickness and maintain contact which may include review meetings with the employee.

The employee has no statutory right to be accompanied at a review meeting. The employee may wish to contact their union where they are a member for advice.

#### **Final case review**

The chair of the meeting will write to the employee to invite them to a final case review.

An Occupational Health report will be required prior to a final case review.

The manager and employee are expected to provide details of any significant issues and relevant papers in advance of the meeting. Management documents will normally be supplied with the invitation letter.

Dependent upon the nature and complexity of the absence concern, the manager may produce a management report.

The employee, or their companion, must submit their information to arrive at least **4 calendar days** before a meeting.

The employee has the right to be accompanied at a formal meeting by a trade union representative or a Fawley Parish Council work colleague.

**Outcome of a final case review**

The chair of the meeting will decide how the attendance concerns will be managed.

The possible outcomes are:

- absence remains under review or
- a return to work is planned or
- the employee is dismissed on the grounds of medical capability with the appropriate contractual notice or
- the employee is dismissed on the grounds of medical capability with the appropriate contractual notice and the Redeployment Policy is engaged or
- where the employee is a member of a pension scheme and medical approvals have been gained, ill health retirement (IHR) can be discussed with the employee

At the meeting the manager must advise the employee of:

- the outcome
- whether they have a right of appeal
- the date by which an appeal must be submitted

The details of the meeting and the outcome are confirmed in writing within 5 working days.

**Right of appeal against dismissal**

Where the outcome of the final case review is dismissal on the grounds of medical capability, the employee has a right of appeal under this policy.

The employee's grounds for appeal are that they believe they should remain in the Council's employment. The employee must identify evidence to support this position.

An employee must ensure their written appeal is received

by the manager within **10 calendar days** of the meeting, starting from the day after the meeting. The full reasons for the appeal must be given along with any supporting evidence.

**Right of appeal against non-award of IHR or tier of IHR**

**This right of appeal is only open to members of the Local Government Pension Scheme (LGPS).**

If an employee wishes to appeal:

- why IHR has not been awarded OR
- the IHR tier that has been awarded

The right of appeal is managed through the LGPS Internal Disputes Resolution Procedure (IDRP).

**Mutual agreement**

As an alternative to a final case review (and possible dismissal) an employee's contract of employment may be ended by mutual agreement between the employee and the Council.

This is a preferred approach in order to avoid the stress and pressure a final review meeting can place on an employee who has extended ill health.

A mutual agreement may be agreed with IHR.

There is no right to appeal a mutual agreement as both parties are entering into the agreement.

It is recognised that not all employees will want to enter into a mutual agreement and those cases should continue to be managed through the review meeting stage and a final case review.

**Less than two years continuous service**

The same principles apply when managing long term sickness absence for employees with less than two years continuous service.

There are three possible stages:

- review stage
- mutual agreement OR final case review
- appeal (only following a final case review)

The manager will review the employee's absence and maintain contact through review meetings.

It is less likely that a lengthy period of long term absence can be sustained during the first two years of employment and therefore it will be progressed to a mutual agreement or final case review.

Where a final case review is held, the chair of the meeting will decide how the attendance concern will be managed. The employee may be dismissed on the grounds of medical capability with contractual notice.

The employee only has the right to appeal against a dismissal decision. The same principles apply as the right of appeal section.

### **Referrals to professional bodies**

Some professions are required to be registered with a professional body in order to practice. If there are concerns about the employee's fitness to practice during, or upon completion, of the managing sickness absence process, there may be a duty to refer the employee to their professional body.

### **Related documents**

To help apply the policy you may find it useful to investigate the following:

- Sick pay entitlements
- Annual Leave and Time Off Policy
- Reasonable Adjustments Policy
- LGPS IDR process – Hampshire Pension Services website
- Redeployment Policy
- Department for Work and Pensions – Fitness to Work certificates

## **Support**

### **Employees:**

Queries should be directed to your line manager.

A confidential counselling service is provided by the Employee Assistance Programme who can be contacted on 0844 892 2493 or by emailing [client.services@healthassured.co.uk](mailto:client.services@healthassured.co.uk)

Your trade union or professional association may be able to provide you with additional support.

Anyone without access to the Blip App must contact their manager who will update their record.

### **Managers:**

Further information is available from Peninsula

Advice on remaining policy related queries can be directed to the Clerk