



ATTENDANCE MANAGEMENT AND ILL HEALTH CAPABILITY PROCEDURE

Adopted from DCC: 16th January 2020

Review date: January 2022

Signed.....

Chair of Governors



Finalised July 2019

Version History			
Version	Date	Detail	Author
1.00	28/06/13	Restoring Elected Member appeal process.	Nigel Hughes
2.00	02/02/2016	Review 1 st draft	Nigel Hughes
3.00	24/05/2016	Trade Union Consultation	Tracey Wall
4.00	16/06/2016	2 nd Trade Union Consultation	Tracey Wall
5.00	26/08/2016	Legal Services Consultation	Tracey Wall
6.00	23/11/2016	Following Departmental Management Consultation	Tracey Wall
7.00	01/12/2017	Amendment to appeals process (delegation of function to Strategic Directors)	Tracey Wall
8.00	09/07/2019	Amendment to appeals process (transfer from Legal Services to HR Division)	Tracey Wall

Links and Dependencies
'A Fair Deal for Derbyshire' - Labour Manifesto 2013

Attendance Management and Ill Health Capability Procedure

1. Purpose

The purpose of this procedure is to set out the framework by which short and long term sickness absence will be addressed.

2. Scope

This procedure applies to all employees except those employed in schools where the Governing Body performs the function of the employer.

3. Key principles

This procedure is in accordance with legislative requirements and ACAS guidance.

- The aim of the procedure is to promote high levels of attendance at work which will in turn lead to better levels of service provision.
- Following this procedure will enable sickness absence issues to be addressed in a fair and consistent manner so that employees can achieve and maintain a satisfactory level of attendance at work.
- The Council will provide appropriate support for employees who are absent due to sickness.
- Abuse of the sickness scheme will be dealt with under the Council's disciplinary procedure.
- Employees have a right to be accompanied at formal meetings, held as part of this procedure, normally by a colleague or trade union representative.
- Employees will be given a minimum of 7 calendar days notice, in writing, of all formal meetings held under this procedure.
- Reasonable adjustments should be considered for employees where relevant, in accordance with the Equality Act 2010.

- Neither party is allowed to electronically record meetings held as part of this procedure. The use of recording equipment by either party without consent may constitute a disciplinary matter.

4. Roles and responsibilities

- Line managers have responsibility for managing the sickness absence of their employees.
- HR will provide advice and guidance as appropriate up to stage 2 of the process.
- Where required HR will accompany the Manager from stage 2 of the procedure onwards.
- Manager guidance supplements this procedure.

5. Managing Sickness Absence

Sickness Reporting

- Employees have a responsibility to report their sickness absence as set out below.
 - Day 1 - Employee reports absence to manager in line with agreed timescales.
 - Day 4 - Employee updates manager on nature / duration of the absence.
 - Day 8 - Employee, if still absent, provides a Fit Note.
- Where an employee fails to comply with these timescales managers should contact the employee to discuss the absence.

Return to work discussion

- Return to work discussions will take place within 2 working days of an employee returning to work regardless of the length of absence.
- The discussion will be “face to face” wherever possible. Where this is not practicable, the discussion may take place via telephone.
- After the meeting the return to work documentation will be completed where appropriate.
- Consideration should be given as to whether a review meeting is appropriate as detailed below.

Review process

- Managers should review absences when the triggers have been reached:
 - Short term absence including intermittent absence (8 working days in any rolling 12 month period) (pro rate for part time staff) or
 - Long term absence (28 calendar days in any 12 month period) or
 - Where there is other cause for concern on the level or pattern of absence.
- Managers will make a record of all discussions, meetings and actions taken, ensure they are placed on the personal file and give a copy to the employee.

Stage 1 Informal Meeting

Employees may be accompanied by a colleague or trade union representative if they choose.

At the meeting considerations will include:

- The employee's absence record.
- The reasons for absence.
- Up to date medical information provided by the employee.
- Referral to Occupational Health, physiotherapy or counselling where appropriate.
- Temporary alternative duties where these would allow an employee to return to work.
- Ending the process where the employee has returned to work and no further action is necessary.
- Setting a review period of 1 to 3 months, dependent on circumstances.

At the end of the review period there must be a discussion with the employee which should include:

- The actions taken at Stage 1.
- Steps the employee has taken to improve his/her attendance.
- Current available medical information, including information from the employee and any Occupational Health report where appropriate.
- Reasonable adjustments if these would help the employee to return to work or improve their attendance at work.
- Referral to Occupational Health where this has not previously been done.
- Reinforcement of the operational effects of absence from work.
- Removal from the process where attendance has improved to a satisfactory level or the employee has returned to work.
- Moving to a Stage 2 meeting.

Stage 2 Meeting

The employee should be invited to a formal meeting to discuss their sickness absence. They may be accompanied by a colleague or trade union representative. At the meeting considerations will include:

- Reviewing information in relation to the employee's sickness.
- Reviewing the outcomes of all earlier meetings.
- Further referral to occupational health.
- Reasonable adjustments where appropriate.
- Redeployment where the Occupational Health Physician has stated the employee is fit for alternative duties.
- Ill health retirement where appropriate.
- Setting a further review period and advising the employee that if his/ her attendance at work does not improve or there is not a return to work within

a set timescale (1 to 3 months, dependent on circumstances), it may be necessary to arrange a Capability Hearing, the outcome of which may be dismissal.

At the end of the review period there must be a discussion with the employee which should include:

- Reviewing information about the employee's sickness.
- Reviewing the outcomes of all earlier meetings.
- Discuss the potential implications of their continued level of absence, which may lead to a Capability Hearing.
- Extending the review period where attendance has improved but there are still concerns about the employee's overall pattern of attendance, or where further information is awaited.
- Consideration of removal from the process where attendance has improved to a satisfactory level or the employee has returned to work.

Stage 3: Capability Hearing

A capability hearing should be arranged if attendance at work has not improved to the required standard or if a return to work date has not been agreed.

The employee should be advised in writing of the requirement to attend a formal hearing and be provided with a statement of case a minimum of seven calendar days prior to the hearing.

The hearing will be chaired by a manager from the leadership job family (grade 15 and above) and an HR officer will advise. The decision of the Chair will be notified at the hearing.

Outcomes may include:

- Dismissal with notice (redeployment may be sought in appropriate circumstances).
- Final written warning.
- Further review period to allow time for attendance to improve.

A letter confirming the outcome of the hearing will be sent to the employee within 7 calendar days.

6. Appeal

The employee has a right of appeal:

- Appeals against dismissal are to Executive Directors and must be registered in a letter to the Director of Organisational Development &

Policy within 7 calendar days of receipt of the written notification of the hearing decision.

- An appeal against any other outcome will be heard by a member of the Leadership Job Family (grade 15 and above) and must be registered in a letter to the appellant's Executive Director within the same timescales.

The employee will receive a reply to the appeal letter within 7 calendar days, acknowledging the registering of the appeal which will take place as soon as practicable. There will be a minimum of 7 calendar days notice of the appeal date.

Any statements of case or evidence on which either management or the employee wishes to rely, will be provided to the Appeal Hearing Officer and other party at least 7 calendar days prior to the hearing.

A legal adviser will be present at any appeal against dismissal.

The employee has a right to be accompanied at the appeal, normally by a colleague or trade union representative.

The employee will be informed of the outcome of the appeal in writing within 7 calendar days. That outcome is the final stage within the Council's procedures.