
Managing Attendance Policy

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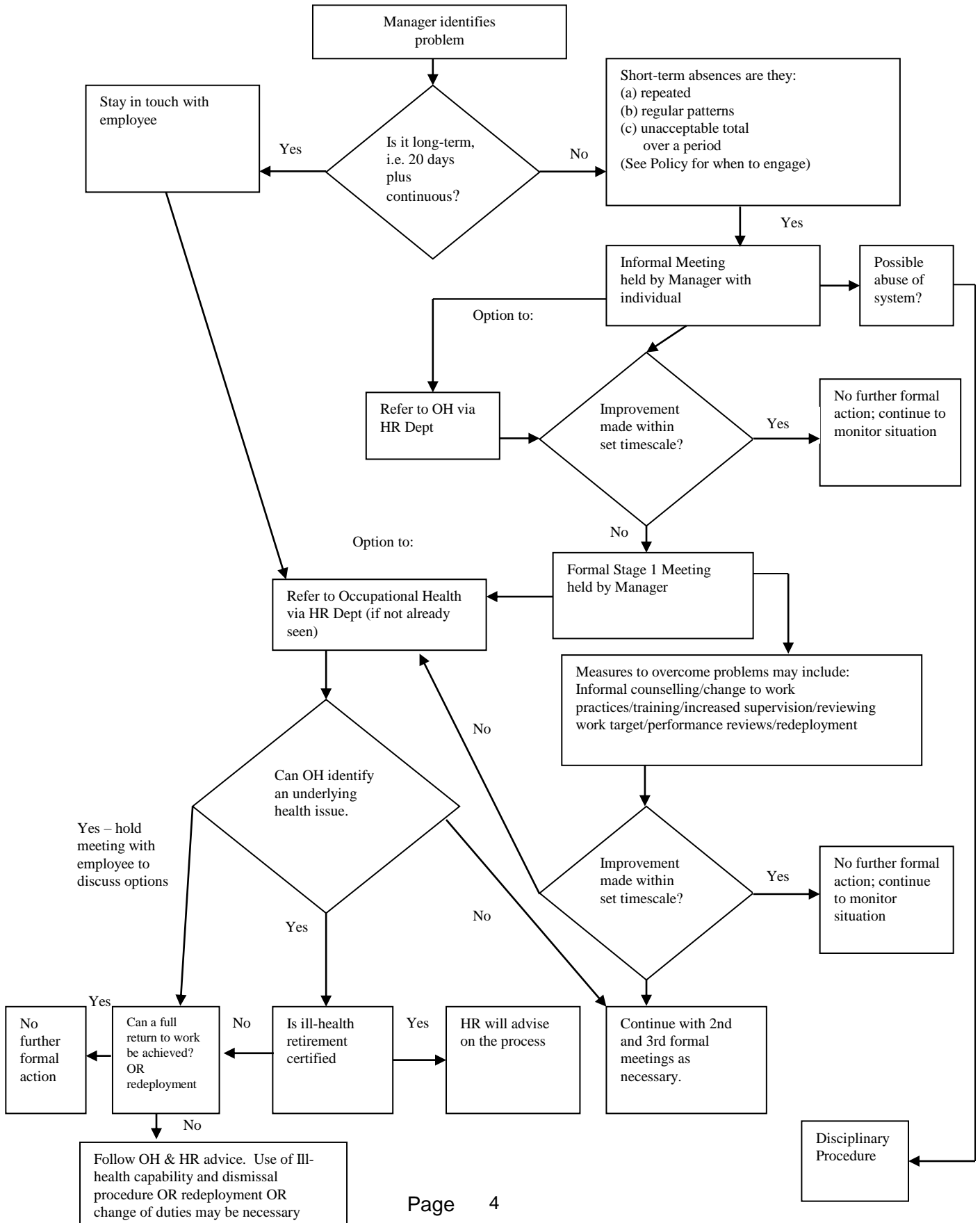
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SICKNESS ABSENCE - FLOW CHART



MANAGING ATTENDANCE

1 INTRODUCTION

This policy is recommended to Council staff as a guide to improve attendance and where necessary, to effectively manage absences.

The aim of this policy is to enable employees to attend work in line with their contractual obligations and to assist managers to reduce levels of absence among staff in a fair and consistent way. The policy aims to balance two considerations; the need for the Council to deliver high quality services, and the interests and rights of individual employees.

It is the responsibility of all managers to ensure they attend relevant training and awareness sessions to enable them to manage attendance in a mindful and compassionate manner, and for all managers and staff to promote wellbeing throughout the Council. Managers must be mindful of the impact to employee wellbeing of the new ways of working and of different working arrangements.

The policy contains separate sections covering managing repeated or frequent short term absences and managing long term absences of 20 days or more.

Where an employee is at work but is finding it hard to fulfil their hours or duties due to ill health, please refer to the Performance Improvement and Capability Procedure.

2 EQUALITY

At Bracknell Forest Council we are committed to encouraging equality, diversity and inclusion among our workforce, and eliminating unlawful discrimination. We want everyone that works for us to feel that their individuality is respected, and their unique contributions are valued.

The aim is for our workforce to be truly representative of all sections of society and our customers, and for each employee to feel respected and able to give their best.

The organisation - in providing goods and/or services and/or facilities - is also committed against unlawful discrimination of customers or the public.

3 PRINCIPLES

Each case will be treated on an individual basis. Individual employees have a duty to attend work in line with their contract, and consequently must take all reasonable steps to protect their own welfare, and to assist in the promotion of a healthy workplace. This policy should be considered alongside the Council's Agile Working Policy as this provides greater opportunity to explore options where work is performed.

The impact of absence is significant, e.g. the impact on the service and the cost of absence to the Council. For these reasons maximising attendance for all employees is very important to enable the Council to provide consistent and high quality services.

Each case will be dealt with sensitively and with due fairness, and with regard to the interests of both the individual and the Council.

This policy should be used in conjunction with other relevant policies such as:

- Stress at Work
- Substance Misuse
- Domestic Abuse
- Agile working

4 CONFIDENTIALITY

Sickness, medical procedures and personal situations which may result in sickness absence should be dealt with confidentially. Conversations between manager and employee should therefore be undertaken in a meeting room. Similarly, telephone or video conversations to employees who are off sick, should not be held in an open plan office as this may breach confidentiality.

Whilst it is recognised that co-workers are interested in the well-being of their colleagues, managers must not discuss the reason for absence with staff unless pre-agreed with the member of staff.

5 SCOPE

This policy applies to all employees of Bracknell Forest Council, with the exception of:

- School based staff (see separate School policy)
- Employees serving a probationary period
- For individuals undertaking casual work

The procedures in this policy cover situations of absence only. If an employee is attending work but is unable to carry out their role satisfactorily due to ill-health then the Performance Improvement & Capability procedure should be used.

6 NOTIFYING ABSENCE

6.1 Notification Procedure

Employees who are absent from work are required to follow the reporting procedure set out below:

The employee should contact their manager on the first day of sickness, outline the reason for the absence and give an estimate of the duration of their illness. Where the manager is not available the employee should contact another senior manager or named officer in the team. Local arrangements may apply where shift and rota patterns are in place. In these circumstances the employee must notify the Shift Leader of the absence.

If the employee is seriously ill and unable to contact their Manager/Shift Leader, they should ask a family member or friend to do so as soon as it is possible.

The Manager should log into the employee record on iWork@BFC and input the start date and reason for the absence. For further information please see the [Guidance for recording absence](#).

6.2 Fit Note

If the employee is absent for more than seven calendar days (including non working days), they must obtain a Fit Note from their doctor and forward a copy to the manager. The employee should retain the original of the Fit Note. Failure to submit a Fit Note (or failure to notify sickness absence) may result in sickness payments being stopped or suspended. It is important for the employee to keep the manager up to date on the likely return to work date. Repeated failures to notify absence correctly or failure to produce sickness certificates may lead to disciplinary action.

The Fit Note may indicate the employee would be able to return to some sort of work with certain restrictions. If the manager is unsure about whether they can comply with the recommendation then Occupational Health can provide additional advice. If the recommendations cannot be accommodated the employee is treated as unfit to return to work.

if the employee does not return to work on expiry of the first Fit Note, further Fit Notes are required to cover the period of absence. If an employee wants to return before the Fit Note expires the manager should discuss this with the employee and should either ask the employee to obtain a further Fit Note from their GP which shows they are fit to return or refer the employee to OH to obtain OH advice about their fitness to return.

6.3 Accidents at Work

All injuries, accidents, illnesses or diseases arising from work activity must be reported, regardless of the severity, to the manager as soon as possible after the incident. The manager must then follow the Health and Safety procedures to report the incident. Further information can be found at <https://bfcouncil.sharepoint.com/SitePages/Report-an-accident-or-incident.aspx>

7 RETURN TO WORK INTERVIEW

The supportive Return to Work Interview should take place for every occasion of absence. The purpose of the interview includes:

- To welcome the employee back and to check on their health and wellbeing. The manager should discuss with the employee any help or support they may require on their return to work.
- To check they are well enough to resume duties, focus on their value to the service and update them on any changes.
- To give the Manager opportunities to enquire what was wrong and possibly explore any problems (e.g. domestic, work) which may have contributed to the absence. To establish if anything can be done to prevent recurrence.
- To show the employee that the absence has been noted.
- To complete the self certification form.
- Where appropriate, to discuss the impact of the absence on the service or the team.
- A copy of the fit note should be taken by the manager and the original returned to the employee

- In cases where there is room for improved attendance, an employee must be told what is expected and the likely consequences if this does not happen.

A written record should be made of return to work interviews on the form provided on the intranet.

8 MANAGING ABSENCE

Please note that pregnancy related absences do not count towards sickness absence triggers and, depending on the individual circumstances, this may also be the case for absence resulting from conditions such as menopause and Covid.

The Council operates agile working arrangements and, where appropriate, employees may be well to undertake work duties virtually. This is one tool in supporting attendance in work. An example of this may be considered where an employee is fit to work but is infectious and attendance in the workplace is not recommended. Where virtual working can be applied this should be considered.

8.1 Informal Action

Formal action in relation to sickness absence should not be taken until all informal measures have been explored and support provided for improvement. Part of the accepted responsibilities of good management is to ensure that supervisory processes which fall short of formal action are observed before entering into formal review meetings. This can be done through the return to work interviews or during other informal meetings. It is recommended that file notes are made of informal actions as they may need to be presented as evidence if any future formal actions are taken.

8.2 Managing Short Term Absence

Short term absence will generally occur where there is no independent evidence of a medical condition. After the informal process has been exhausted and where the frequency, pattern or reasons for absence continue to cause concern, it is important that the Manager sets up a review meeting to discuss the problems with the employee.

Short term absence will usually be defined as follows, and could trigger review meetings:

- Time lost over a period (as a guide, 3 separate absences in 6 months; or 8 working days absence made up of short-term repeated absences in a 12 month period. NB any single period of absence over 20 days is considered long-term and should be considered under the Long Term Absence procedure further down in this document)
- Patterns emerging (e.g. regular Mondays/Fridays or sickness after a holiday)
- Combination of odd days, longer periods and patterns of absence emerging which cause the Manager concern.

These are guidelines only; for example, the particular circumstances surrounding the absence pattern may cause concern before a threshold number of days is met, in which case the manager should still hold a review meeting.

8.2.1 Informal Meeting

For repeated short term absences the manager should hold an informal meeting with the employee, with the following objectives:

- Drawing the employee's attention to any concerns the Manager may have about their attendance record while being respectful and sensitive to their medical reasons. Enquiring about domestic or work-related pressures which may offer some explanation of absence problems and any help and advice necessary to support the employee, including and temporary change to their duties, location of work, etc.
- To review the attendance record of the employee with them, ensuring that it is up to date and accurate, and stressing the detrimental impact of these absences on the Section/Department.
- To discuss with the employee the extent of and reasons for their periods of absence, and how the level of absence can be reduced.
- To discuss with the employee the improvement that is expected, the course of action to be taken, the possible consequence if no improvement is made and to give a period within which an improvement should be made. The level of expected improvement will be on a case by case basis. A date should be fixed on which the next review meeting will take place. The Manager should confirm these points in writing.
- During the review period, the employee's attendance should be closely monitored. If there is cause for concern, the Manager can deal with it at any time before the end of the review period.

The employee is not entitled to union representation during the informal stage but may seek advice and guidance from their union representative in preparation for the meeting with their manager.

A review meeting should be conducted at the end of the review period, to either refer to the first formal stage, extend the review period or conclude the process should attendance meet the required levels. The review meeting will:

- Assess attendance in the period since the informal meeting
- Assess the action that was agreed in the informal meeting
- Decide on any appropriate additional action.

Depending on the circumstances of each individual case, appropriate additional action at this time may include:

- Referral to the Occupational Health Service for an opinion on the underlying cause of the absence. The form to be used is an Occupational Health Management Referral form which is available on the intranet: [Occupational health \(sharepoint.com\)](#)
- If it is evident that there has been abuse of the system, it should be treated as a disciplinary issue rather than capability, and it should therefore be referred to the Designated Officer for disciplinary action.

If there has been a clear improvement which meets expected standards then the employee should be told that no further action will take place as long as the improvement is maintained, but that failure to maintain a satisfactory level of attendance will result in a

further review meeting or further action. The Manager should not cancel the meeting simply because attendance has improved.

If no improvement or insufficient improvement has taken place then the Manager should conduct a Formal Stage 1 Meeting. The employee should be notified of the outcome in writing.

8.2.2 Formal Stage 1 Meeting

If an employee's sickness absence levels have not improved despite being addressed informally, and the employee has reached the trigger points, the manager will invite the employee to a Formal Stage 1 meeting.

The manager will agree a date with the employee and will confirm the invitation in writing giving the employee at least 5 working days' notice. See sample letter 1 below. The employee is not entitled to union representation during the Formal Stage 1 but may seek advice and guidance from their union representative in preparation for the meeting with their manager.

The manager should prepare for the meeting by ensuring that they have clearly identified the employee's sickness absence levels and the support that has been provided.

The Formal Stage 1 meeting will be conducted by the manager, who will:

- Explain the concern about the absence level and reasons for that concern, such as the operational difficulties caused
- Listen to the reasons for absence and respond appropriately
- Consider whether to refer the case to Occupational Health, if not already done
- State that sustained improvement in attendance is required
- Identify any support required, and review what support has already been provided and the effect of that support
- State that sustained improvement in attendance is expected and set an appropriate monitoring period, agree targets for improvement and set a date and time for the next meeting. Targets will be set on a case by case basis and should be SMART where possible.
- Confirm the support available
- Explain that continued failure to improve attendance to the specified level may lead to further action
- Confirm the outcome of the meeting in writing. See sample letter 2 below.
- A full record of the meeting should be made

If the employee reaches an acceptable level of improvement during the monitoring period, monitoring should revert back to informal arrangements. The employee should be told that no further formal action will take place as long as the improvement is maintained, but that failure to maintain a satisfactory level of attendance will result in a further review meeting or further action.

If the employee has made insufficient or no improvement by the end of the monitoring period set at the Formal Stage 1 meeting or they have breached any targets before the end of the monitoring period the manager will refer the case to the Designated Officer to attend a Formal Stage 2 meeting.

8.2.3 Formal Stage 2 Meeting

This meeting will be carried out by the Designated Officer. It continues to follow a formal procedure and carries with it the right to representation and appeal (see sample letter 3 below). The Formal Stage 2 procedure in Appendix A outlines the necessary procedures to follow for this meeting.

Outcomes from this meeting may include formal warnings up to and including a final written warning (see sample letter 4 below). The Designated Officer may, if appropriate, repeat this Stage as necessary.

The Designated Officer will decide when to initiate this stage, which should be after sufficient time has been given for actions agreed in the Formal Stage 1 to be carried out and improvements to be made and reviewed. Where the problem is clearly persisting the situation will be discussed with the employee and the Designated Officer may choose to hold the Formal Stage 2 Meeting sooner. An HR Adviser will advise on individual cases as appropriate.

If the employee reaches an acceptable level of improvement during the monitoring period, monitoring should revert back to informal arrangements. The employee should be told that no further formal action will take place as long as the improvement is maintained, but that failure to maintain a satisfactory level of attendance will result in a further review meeting or further action.

If the employee has made insufficient or no improvement by the end of the monitoring period set at the Formal Stage 2 meeting or they have breached any targets before the end of the monitoring period the Designated Officer will normally arrange an Ill-health Capability Hearing which may lead to dismissal. See details of this process in Appendix B.

If an action short of dismissal is taken, and the problem persists, meetings at this or the preceding level may be repeated as appropriate at a future date.

8.3 Managing Long Term Absence

Long term absence cases are those where an employee has been absent continuously for a period of twenty working days or is likely to be absent for this period. If an employee is absent from work long term, the manager should keep in regular contact with the employee. Records should be kept of employee contact in long term absence cases.

Where the employee's recovery period is uncertain or the absence is likely to go significantly beyond twenty working days, the case should be referred to the Occupational Health Service for a medical opinion of the case. This will include requesting information regarding the present health of the employee and the likely date of return to work. Once Occupational Health's report has been obtained, the manager, in consultation with HR, will consider whether and when the employee is likely to return to work and the operational impact of continuing absence. Further appointments with the Occupational Health Service may be necessary.

8.3.1 Four Point Options Meeting

If the medical evidence is giving no clear prognosis or return to work within a reasonable period such as three months, the Manager will arrange a meeting with the employee formally. Having taken advice from the Occupational Health Service and HR, part of this discussion may be to discuss the options available.

The manager will agree a date with the employee and will confirm the invitation in writing. See sample letter 5 below.

During the meeting the following discussions will take place:

- When the employee considers they will be fit to return to work/any support needed;
- Any Occupational Health advice received;
- If the employee is unfit to perform his/her current duties but is capable of carrying out other work, suitable alternative work will be considered. However the Council will be under no obligation to create a job for the employee

It should also be explained to the employee that possible outcomes of the meeting are as follows:

- No further action (where the employee will be fit to work within a determined period, or there is a long term condition, for example, cancer, menopause or other conditions covered by the Equality Act, where a longer period of monitoring is needed)
- Considering adjustments or suitable alternative employment if the employee is temporarily unfit to carry out their normal duties but is capable of carrying out other work. Such changes may be on either a temporary or an indefinite basis as appropriate. If a disability has been identified then reasonable adaptations to the work will be considered, and these may include redeployment to more appropriate work. Searching for redeployment should commence immediately but should only continue for a maximum of 3 months.
- Consider retirement on grounds of ill health in accordance with the appropriate pension scheme, if a recommendation has been made by the Occupational Health Service. Criteria for ill health retirement are quite stringent and it will not always be possible for the Occupational Health Service to recommend this even where return to the same job is unlikely in the medium to long term.
- Where the employee is unfit for work and the above options are not applicable, and the job can no longer be held open, this may ultimately result in the dismissal of the employee. The Council cannot support indefinite sickness absence as the needs of the service must be considered. The Ill-health Capability and Dismissal Procedure outlined in Appendix B should be followed. Special arrangements should be considered according to the individual circumstances of the case.

After the meeting a letter will be sent to the employee confirming all the details of the meeting. See sample letter 6 below.

8.3.2 Redeployment

The employee will be invited to a personal interview with an HR Advisor, which may also be attended by a Trade Union representative and the manager, where the redeployment process will be explained. The individual's skills, experience and abilities will be explored, and which types of posts may be suitable or unsuitable.

The individual employee has an equal responsibility to play a proactive role in the search for redeployment, and HR will ensure they have access to view all job vacancies across the Council.

Where a post is identified as potentially suitable, the individual should submit an application for the post, making it clear that they are in a redeployment situation. The HR Adviser must be informed that the application has been submitted and will be responsible for ensuring that the recruiting manager is aware of the organisation's policy on redeployment which states that, if the individual appears on paper to meet the essential requirements of the person specification, the manager must shortlist them for interview to investigate their suitability for the post. The manager must give careful consideration to the suitability of the potential redeployee, and then make an appropriate selection decision.

Salary protection for a maximum of 2 grades may apply where an employee is being redeployed due to ill health to a post considered a reasonable alternative role. Further information about this will be provided by HR.

There may be the option for a 28 day trial period to ensure that you and the manager are satisfied that you are capable of carrying out the new role. Further information about this can be provided by HR where appropriate.

The Council cannot indefinitely employ an individual whilst seeking redeployment opportunities. Therefore, the redeployment process will operate for a limited time only, normally up to three months. If no suitable alternative post is found within this timeframe then an Ill Health Capability hearing will be arranged which may result in dismissal (see Appendix B)

9 THE OCCUPATIONAL HEALTH SERVICE

Advice on sickness absence from Occupational Health is intended to help managers reduce sickness absence.

The requirements of the Equalities Act in relation to disability will have an impact on decisions regarding sickness absence management. The Occupational Health Service can advise and, with the HR Section, provide guidance on how the issue should be dealt with (see following section entitled Equalities Act - disability).

The Occupational Health service is there to support both employees and managers, and attendance at an OH appointment is considered a reasonable management request. If the employee refuses to co-operate in providing medical evidence or undergoing an independent medical examination, the employee will be told that decisions will be made on the basis of any information available.

Further information about the Occupational Health Service is available on the intranet.

10 RETURN TO WORK PROGRAMMES

Where appropriate, Occupational Health may recommend a gradual return to work programme after a period of long term sickness. Such a programme would not normally last more than 8 weeks before normal working hours are resumed or pay is reduced accordingly. Should the employee be unable to return to normal work at the end of such an arrangement, further consideration should be given to the situation: light duties or reduced hours cannot be sustained indefinitely.

The manager should consider the recommendations and where possible adhere to them, however this may depend on the specific team or service (for example but not limited to teams where a shift pattern is worked) and some adjustments to the recommendations may be necessary.

After consideration, if the manager has any concerns or operational reasons which hinder the recommendation being actioned, they will consult with HR and the member of staff on alternatives. Ultimately if the OH recommended return to work cannot be supported or sustained by the manager and or department, the member of staff will not be allowed to return to work until a suitable return to work has been investigated and agreed

11 EQUALITIES ACT - DISABILITY

The Equalities Act 2010 requires managers to consider whether an illness is either caused by a long term disability or has created one.

A disability is defined as “a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on an individual’s ability to do normal daily activities”.

In either case, as well as treating the employee fairly they need to consider whether there is a need to put in place a “Reasonable Adjustment” to the post or working conditions. The application of the Equality Act in respect of redeployment and/or job adjustment for employees is complex and it is essential for your HR Section to be consulted and for them to advise on individual cases.

12 DATA PROTECTION LEGISLATION

The Council processes any personal data collected during the sickness absence process in accordance with its data protection policy. Further details can be found in the Privacy Notice on the Council’s website. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purpose of completing the sickness absence procedure.

13 SICKNESS PAY

Employees are entitled to sickness pay allowance as stated in their contract of employment. The payment entitlement is in place to assist employees who are absent due to sickness but does not imply a right to take the equivalent amount of sick leave nor does it mean the employer is unable to make an employment decision prior to the full allowance being exhausted.

14 GENERAL ADVICE AND GUIDANCE

The management of sickness absence is often sensitive and complex. Where any uncertainty exists on how to approach the issue or what action to take in any individual case, advice and guidance must be sought from HR.

Any right of appeal will be dealt with as detailed under Appendix C of this document and will either be the director of the department where the individual is employed or, where appropriate, a director from another area.

A members appeal panel may be convened to hear appeals from directors and assistant directors.

APPENDIX A - Formal Stage 2 Meeting Procedure

Prior to the Meeting

A letter giving at least 5 working days' notice of the meeting will be sent to the employee outlining the matters to be dealt with at the meeting and reminding the employee of their right to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced by the Designated Officer at the meeting, and the names of any witnesses.

The employee should supply to the Designated Officer, at least 3 working day prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called.

The Designated Officer may ask for an HR advisor to be present at the meeting, but this is not compulsory.

At the Meeting

The circumstances as supported by any documentary evidence and witnesses, will be put by the Supervisor/Manager to the Designated Officer and the employee and/or their representative. The Supervisor may call witnesses if appropriate.

The employee and/or their representative will be entitled to ask questions of the Supervisor and witnesses relating to that evidence.

The employee and/or the representative will put their case and be able to call such witnesses as they wish.

The Designated Officer will have the opportunity to ask questions of the employee, their witnesses and the Supervisor.

The parties will have the opportunity to sum up their cases if they so wish.

The parties and their witnesses will withdraw.

The Designated Officer (with the HR representative if attending as adviser), will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point in question.

The Designated Officer will announce their findings and the action they intend to take, to the parties preferably immediately or within a reasonable time after the hearing. This will then be confirmed in writing, within 5 working days of the hearing.

The letter will specify the action taken, together with any review arrangements and right of Appeal (See Appendix C).

APPENDIX B - III Health Capability and Dismissal Hearing Procedure

When the appropriate steps outlined above have been taken, the manager or Designated Officer may have to consider proposing the dismissal of the employee on the basis that their continued absence can no longer be sustained. The manager or Designated Officer must be satisfied that they have considered any possible adaptations to the individuals' work and have sought alternative work without success before this stage of the procedure begins. This hearing will be carried out by a Director or Assistant Director and is a formal procedure with the right to representation and appeal.

Special arrangements for the meeting should be considered according to the individual circumstances of the case (e.g. where the individual's health may make it difficult for them to travel to the place of work). Employees should make their best efforts to attend but if this is not possible then the evidence may need to be heard in their absence.

References to Director may also mean Assistant Director.

HEARING BY DIRECTOR / ASSISTANT DIRECTOR - PROCEDURE TO BE FOLLOWED

Prior to the Hearing

A letter giving at least 5 working days' notice of the Hearing will be sent to the employee (see sample letter 7 below), stating that their continued employment is to be considered, and reminding the employee of his/her rights to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced at the hearing, and the names of any witnesses to be called by management.

The employee should supply to the Director/Assistant Director, at least 3 working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called by the employee.

At the Hearing

The circumstances as supported by any documentary evidence and witnesses, will be put by the Designated Officer to the employee and/or their representative.

The employee and/or their representative will be entitled to ask questions of the Designated Officer and witnesses relating to that evidence.

The employee and/or the representative will put their case and be able to call such witnesses as they wish.

The employee and/or witnesses may be questioned by the Designated Officer.

The Director will have the opportunity to ask questions of the employee and their witnesses and of the Designated Officer and/or his/her witnesses. The Director will wish to be satisfied that all reasonable steps have been taken under the Managing Sickness Absence guidance.

The parties will have the opportunity to sum up their cases if they so wish.

The parties and their witnesses will withdraw.

The Director (with a HR representative attending) will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point of issue.

The Director will announce his/her findings and the action he/she intends to take to the parties preferably immediately or within a reasonable time after the hearing. This will then be confirmed in writing within 5 working days of the hearing.

The letter will specify the action taken, and right of Appeal (see Appendix D).

APPENDIX C - Right of Appeal to Director - Procedure

An employee has a right of appeal to a Director against action taken by a Designated Officer. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- where the employee considers that the Designated Officer has unjustly found against them;
- where the employee contends that a matter of fact referred to at the hearing has not been properly taken into account by the Designated Officer in reaching their decision;
- where the employee feels that the action taken by the Designated Officer has been too severe.

The employee must exercise the right of appeal within 5 working days of receiving confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Director.

The Appeal will be held within 10 working days of the written notification of intention to appeal. The Head of HR will act as adviser to the Director.

For decisions taken by the Designated Officer the matter will end at this stage - there is no further right of appeal.

Procedure to be followed at Appeal by Director

The Director will give notice in writing to the employee at least 5 working days in advance of the time and place of appeal. All documents relevant to the appeal will be attached to this letter, as well as names of any witnesses.

The employee should supply to the Director, at least 3 working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called.

The Designated Officer will put the case to the Director in the presence of the employee and their representative (if any) and may call witnesses.

The employee (or their representative) will have the opportunity to ask questions of the Designated Officer and witnesses on the evidence given by them.

The Director may ask questions of the Designated Officer and witnesses.

The employee (or their representative) will put their case in the presence of the Designated Officer and call such witnesses as they may wish.

The Designated Officer will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.

The Director may ask questions of the employee and witnesses.

The Designated Officer and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.

The Designated Officer, the employee and their representative, and the witnesses will withdraw.

The Director together with a representative from HR will deliberate in private only recalling the Designated Officer and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point in question.

The Director will if possible, announce the decision to the parties immediately or as soon as possible, and confirm in writing within 5 working days.

APPENDIX D - Right of Appeal to a Member Appeals Panel Procedure

A Director or Assistant Director has a right of appeal to a Member Appeals Panel against action taken by a Director. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- where the employee considers that the Director has unjustly found against them;
- where the employee contends that a matter of fact referred to at the hearing has not been properly taken into account by the Director in reaching their decision;
- where the employee feels that the action taken by the Director has been too severe.

The employee must exercise the right of appeal within 5 working days of receiving confirmation of action taken against him. The letter indicating the employee's intention to appeal should be addressed to the Assistant Director: Human Resources.

The Appeal will be held within 20 working days of the written notification of intention to appeal. The Assistant Director: Human Resources will be the officer appointed as Secretary to the Appeals Panel.

Procedure to be followed by a Member Appeal Panel

The Assistant Director: Human Resources will give the employee at least 5 working days' notice of the time and place of hearing. All documents relevant to the hearing will be attached to this letter, as well as names of witnesses.

The employee should supply to the Assistant Director: Human Resources, at least 3 working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called.

The Director will put the case to the Appeals Panel in the presence of the employee and their representative (if any) and may call witnesses. The Designated Officer and/or Supervisor/Manager will be available to assist the Director as necessary.

The employee (or their representative) will have the opportunity to ask questions of the Director and witnesses on the evidence given by them.

The Appeals Panel may ask questions of the Director and witnesses.

The employee (or their representative) will put their case in the presence of the Director and call such witnesses as they may wish.

The Director will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.

The Appeals Panel may ask questions of the employee and witnesses.

The Director and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.

The Director, the employee and their representative, and the witnesses will withdraw.

The Appeals Panel (together with the Assistant Director: Human Resources who is Secretary to the Panel) will deliberate in private only recalling the Director and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point in question.

The Chairman, on behalf of the Appeals Panel, will if possible, announce the decision to the parties immediately, or as soon as possible and confirm in writing within 5 working days.

The decision of the Appeals Panel will be final.

SAMPLE LETTER 1 - INVITE TO FORMAL STAGE 1 MEETING

Date

Dear

SHORT TERM ABSENCE: FORMAL STAGE 1 MEETING

You will be aware from the various discussions we have had, that I am concerned about your overall absence record. I would like to invite you to attend Formal Stage 1 meeting on.....at.....in.....

This meeting is to be held as the first formal part of the Council's Managing Attendance Policy and will give us the opportunity to formally look at your attendance record, discuss any problems you may be experiencing with your health and explore options which may help you improve your attendance.

Please confirm to me that you will be attending this meeting, by (date).

Yours sincerely,

(Manager)

cc: HR File

Encl: Managing Attendance Policy

SAMPLE LETTER 2 - OUTCOME FORMAL STAGE 1 MEETING

Date

Dear

SHORT TERM ABSENCE: OUTCOME OF FORMAL STAGE 1 MEETING

Thank you for coming to meet with me on (date) to discuss your overall absence record. Please find attached the notes from the meeting detailing the discussions that took place.

At the meeting the following improvement in your attendance record was agreed:

(Insert expected improvement)

This improvement will be reviewed (insert how often it will be reviewed) with a final review meeting to be held on (date)

We also discussed what support will be available to you during this period:

(Insert support)

I need to make you aware that if the expected improvement is not made this may lead to a Formal Stage 2 meeting which will be conducted by a Designated Officer.

Please do not hesitate to contact me if you have any queries.

Yours sincerely,

(Manager)

cc: HR File

SAMPLE LETTER 3 - INVITE FORMAL STAGE 2 MEETING

Date:

Dear

SHORT TERM ABSENCE: INVITE TO FORMAL STAGE 2 MEETING

In line with the Managing Attendance Policy, you attended a Formal Stage 1 meeting on (date) to discuss concerns about your absence record. You were subsequently sent a letter stating that your attendance record would be monitored for X months.

This monitoring period has now been completed and unfortunately the expected improvement in your attendance has not been reached. I would therefore like to invite you to attend a Formal Stage 2 meeting on.....at..... in.....

At this meeting we will discuss progress made since the first meeting, your current position (including your views on your health in relation to your work) and further options which can be investigated in order to help you improve your attendance. I do need to make you aware one possible outcome of the meeting is that you will be issued with a final written warning to improve your attendance.

You are entitled to be accompanied at this meeting by a trade union representative or work colleague.

Please confirm to me that you will be attending this meeting, by (date).

Yours sincerely

(Designated Officer)

cc: HR File

SAMPLE LETTER 4 - OUTCOME FORMAL STAGE 2 MEETING

Date

Dear

RE: SHORT TERM ABSENCE: FORMAL STAGE 2 OUTCOME

Thank you for coming to meet with me on (date) to discuss your absence record at a Formal Stage 2 meeting. I have decided to issue you with a **final written warning (or state alternative outcome)**. This warning will remain on your file for a period of one calendar year.

Please find attached the notes from the meeting detailing the discussions that took place.

At the meeting the following improvement in your attendance record was agreed:

(Insert expected improvement)

This improvement will be reviewed (insert how often it will be reviewed) with a final review meeting to be held on (date)

We also discussed what support will be available to you during this period:

(Insert support)

I need to make you aware that if the expected improvement is not made this may lead to an Ill-Health Capability and Dismissal hearing being convened and this could ultimately result in your dismissal from your post on the grounds of ill-health.

You have a right of appeal against this formal warning, if you wish to appeal please put your reasons in writing to me within 5 working days of the receipt of this decision.

Please do not hesitate to contact me if you have any queries.

Yours sincerely,

(Designated Officer)

cc: HR File

SAMPLE LETTER 5 - INVITE LONG TERM SICKNESS ABSENCE REVIEW MEETING

Date:

Dear

SICKNESS ABSENCE: LONG TERM SICKNESS ABSENCE MEETING

I am sorry to hear you continue to be unwell and due to this have been unable to return to work. You have been absent from work since (date). Your latest Occupational Health appointment was on (date).

As I am sure you understand your absence from work creates some difficulties for the school and the service being provided. Whilst we are as anxious to be as supportive as we can in such circumstances, unfortunately this absence cannot continue indefinitely. Therefore it is now appropriate to invite you to a meeting to discuss the situation with you, in accordance with the Managing Attendance Policy. I enclose a copy of the policy for your information.

I have arranged a meeting to discuss your absence and seek your views of your health in relation to work. You are therefore requested to attend this meeting at (insert location or whether by telephone or video) on (insert date) at (insert time). You are entitled to bring a trade union representative or work colleague to the meeting.

Please confirm to me that you will be attending this meeting, by (date).

Yours sincerely

(Manager)

cc: HR File

Encl: Managing Attendance Policy

SAMPLE LETTER 6 - OUTCOME LONG TERM SICKNESS ABSENCE REVIEW

Date

Dear

RE: SICKNESS ABSENCE: LONG TERM SICKNESS ABSENCE MEETING OUTCOME

Thank you for meeting with me on (date) to talk about your continued absence due to ill-health. Please find attached the notes from the meeting detailing the discussions that took place.

As discussed at the meeting the advice received from Occupational Health states

At our meeting we also discussed whether you were fit for any alternative work and if there were any redeployment opportunities within school

Ill-health retirement is currently not an option as confirmed by

In light of the above information, I have decided to invoke the Ill-Health Capability and Dismissal procedure. A meeting will be arranged and you will be written to separately regarding this.

You will be entitled to be accompanied at this meeting by a trade union representative or work colleague. The options at this meeting will be to:

- a) Allow you further time to recover
- b) Consider redeployment opportunities
- c) Consider whether ill health retirement is an option
- d) Dismissal on the grounds of ill-health

Please do not hesitate to contact me if you have any queries in relation to this letter.

Yours sincerely,

(Manager)

cc: HR File

SAMPLE LETTER 7 – INVITE ILL-HEALTH CAPABILITY & DISMISSAL HEARING

Date

Dear

RE: INVITE LETTER ILL-HEALTH CAPABILITY & DISMISSAL HEARING

Further to the meeting held on (date) when we/your manager discussed your (short term absences / long term absence), I have decided it is now appropriate to invite you to attend a meeting to consider your continued employment as a (job title). The meeting will be held on (date) at (time) at (location) (*NOTE: if the employee is unable to attend in person due to ill health then the option to hold this online could be offered*).

I have to inform you that one possible outcome of this hearing is that your employment could be terminated on the grounds that you are unfortunately unable to fulfil the duties required of your role due to your ill-health and continued absence/s.

I will conduct the hearing and an HR Adviser will be in attendance to ensure the correct process is followed. X will also be in attendance to present the management case to me.

You have the right to be represented or accompanied by a representative from your Trade Union or a work colleague of your choice, you may also call witnesses at the hearing if you wish.

The procedure to be followed is in accordance with the ill-health capability and dismissal procedure (see paragraph 6.4.2 of the managing sickness absence policy).

Included are the documents to be considered at the meeting. I would be grateful if you could provide me with any documents you may wish to present at the hearing and let me know of any witnesses you may wish to bring, by x (two working days before the hearing).

I would be grateful if you could confirm your attendance at this hearing by calling (name) on (telephone number).

Should you have any queries in the meantime please contact me on x.

Yours sincerely,

(Designated Officer)

cc: HR File

Encl: Managing Attendance Policy

SAMPLE LETTER 8 – OUTCOME ILL HEALTH CAPABILITY & DISMISSAL HEARING

Date

Dear

RE: ILL-HEALTH DISMISSAL HEARING OUTCOME

I am writing to confirm that, following the meeting held on **XXXX**, it was decided that your employment with Bracknell Forest Council should be terminated on the grounds of ill-health capability.

The reason for this decision is that you have been absent from your post since **date** and you have been unable to return to work since that date.

Unfortunately, having considered the medical evidence carefully including the information from you about your health circumstance and including the possibility of alternative employment, Bracknell Forest Council cannot continue to employ you as there is no indication that you will be able to return to this role.

You have the right to appeal against your ill health capability dismissal. If you wish to appeal, you must submit your appeal in writing to **XXXX**, Assistant Director of HR & OD, within 5 working days of receipt of this letter. You should state the grounds for your appeal in full. Lodging an appeal will not delay the dismissal taking effect, but if you are subsequently reinstated any lost pay will be reimbursed.

The following arrangements apply with immediate effect (but may be varied or revoked in the event of a successful appeal).

- a) Your dismissal is effective immediately and your final day of employment is therefore **XXXX**
- b) You shall receive **XX** weeks' pay in lieu of notice, in accordance with your contract of employment, subject to the normal deductions for tax and National Insurance contributions
- c) You must return any property issued to you by the Council, this includes, but is not restricted to; laptop, mobile phone, ID badge, locker key, confidential documents, in good condition
- d) Your final salary payment will be made in the **XXXX** payroll, subject to normal deductions for tax and NI contributions.

You have **XX** days outstanding holiday entitlement, for which you shall receive payment in lieu as part of your final payment of salary. This shall be subject to normal deductions of tax and National Insurance contributions.

PERIOD OF NOTICE

You are entitled to receive **XX** weeks' notice from the Council, but as you are on sick leave and therefore unable to serve out your notice period, this will be paid in lieu of notice, which means you do not have to work your notice period. This payment will be made through the normal payroll system in **MONTH**.

For information, pay in lieu of notice is subject to Tax and National Insurance deductions.

I would like to take this opportunity to send you my best wishes and to offer you the Council's thanks for the contribution you have made to the XXXX section during your valued service. If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

(Director/Assistant Director)

SAMPLE LETTER 9 – OUTCOME ILL HEALTH RETIREMENT DISMISSAL

Date

Dear

RE: OUTCOME LETTER ILL-HEALTH RETIREMENT DISMISSAL HEARING

I am writing to confirm that, following the meeting held on **XXXX**, it was decided that your employment with Bracknell Forest Council should be terminated on the grounds of ill-health capability.

In line with Bracknell Forest Council's Managing Attendance Policy, this decision was based upon the evidence supplied during the Ill Health Capability Dismissal hearing and advice received from the Occupational Health doctor who has recommended that, as you are incapable of discharging the duties of your post, you are ill health retired.

You have the right to appeal against your ill health capability dismissal. If you wish to appeal, you must submit your appeal in writing to **XXXX**, Assistant Director of HR & OD, within 5 working days of receipt of this letter. You should state the grounds for your appeal in full. Lodging an appeal will not delay the dismissal taking effect, but if you are subsequently reinstated any lost pay will be reimbursed.

The following arrangements apply with immediate effect (but may be varied or revoked in the event of a successful appeal).

- e) Your dismissal is effective immediately and your final day of employment is therefore **XXXX**
- f) You shall receive **XX** weeks' pay in lieu of notice, in accordance with your contract of employment, subject to the normal deductions for tax and National Insurance contributions
- g) You must return any property issued to you by the Council, this includes, but is not restricted to; laptop, mobile phone, ID badge, locker key, confidential documents, in good condition
- h) Your final salary payment will be made in the **XXXX** payroll, subject to normal deductions for tax and NI contributions.

LOCAL GOVERNMENT PENSION

As a pension scheme member with more than 3 months service, you are entitled to have access to your pension if a qualified Occupational Health Doctor certifies that you meet the criteria for Ill Health Retirement.

Under the pension regulations, the number of extra years' service you are awarded depends on the extent of your ill-health or disability, i.e., it is not based solely on how long you have been a member of the fund.

Berkshire Pension fund, who administer the Local Government Pension Scheme on behalf of the Council will be notified of your retirement date. The Pension Scheme Manager will write to you directly regarding the actual amount of pension (and lump sum if you joined the pension scheme before April 2008) you will receive.

As our OH doctor says there is no reasonable prospect of you obtaining gainful employment before your normal retirement date, your membership will be increased by the period between your date of leaving and your normal retirement date, and the benefits will be calculated as if you had remained in the Scheme to your normal retirement date.

You are advised to contact the Berkshire Pension Fund who will advise you accordingly about your options.

PERIOD OF NOTICE

You are entitled to receive **XX** weeks' notice from the Council, but as you are on sick leave and therefore unable to serve out your notice period, this will be paid in lieu of notice, which means you do not have to work your notice period. This payment will be made through the normal payroll system in **MONTH**.

For information, pay in lieu of notice is subject to Tax and National Insurance deductions.

P45/SSP1

Your P45 Tax Form will be sent to Berkshire Pension Fund.

The SSP1 form will be sent to you by payroll and your last medical certificate for you to take to the Department of Work and Pensions who will be able to tell you if you are now entitled to any benefit.

I would like to take this opportunity to send you my best wishes and to offer you the Council's thanks for the contribution you have made to the **XXXX** section during your valued service. If I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely

(Director/Assistant Director)