

ATTENDANCE MANAGEMENT POLICY AND PROCEDURE

INFORMATION AND GUIDANCE FOR LINE MANAGERS AND EMPLOYEES

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ATTENDANCE MANAGEMENT POLICY AND PROCEDURE

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1. Scope

1.1 This procedure applies to all employees of Scottish Borders Council (“the Council”) regardless of status and length of service with the exception of:

- The Chief Executive

1.2 The policy and procedure has been agreed in consultation with the Council’s recognised Trades Unions: GMB, Unison, Unite, Educational Institute of Scotland (EIS), and Scottish Secondary Teachers Association (SSTA).

1.3 This policy is associated to the following key policies/guidelines and where applicable should be cross referenced to gain further detail:

- Accident and Incident Reporting Policy (Found on [Assure H&S](#))
- Corporate Health & Safety Policy (Found on [Assure H&S](#))
- [Disciplinary Procedure](#)
- [Domestic Abuse Policy](#)
- [Equality Diversity & Human Rights Policy](#)
- [Mentally Healthy Workplace and Stress Management Policy](#)
- [Retention and Redeployment Policy](#)
- [Reasonable Adjustments Policy](#)
- [Special Leave Guidelines](#)
- [Substance Misuse Policy](#)

2. Introduction

2.1 The Council’s Attendance Management policy recognises the need for a procedure which will benefit the council, protect employees and improve services to customers.

The introduction of the Attendance Management Policy and Procedure and supporting guidance is a positive step by the Council to provide effective support to employees who are absent from work due to sickness or medical treatment.

Absence can be a difficult subject and when poorly handled or ignored it can quickly multiply and create an environment of discontent amongst other employees.

Sickness absence which is not genuine will be handled under SBC Disciplinary Procedures.

The following aims to address absence in differing ways by:

- Supporting employees
- Taking effective action where necessary.

2.2. Supporting employees

One of the most successful ways of impacting on sickness absences is for the employer, and in particular the immediate line manager, to actively support employees, especially through a prolonged period of absence, by keeping in contact with them and trying, where possible, to offer advice and discuss alternatives which will hopefully result in an early return to duty.

Similarly, it is equally important for the line manager to speak to employees on their return to work following an absence ([see paragraph 15, Conducting a Return to Work Meeting](#)). This allows the employee and the manager to identify, for instance, any difficulties which may be contributing to sickness absence and take necessary action to resolve them.

A list of contacts employees may find useful is contained in [Appendix 13](#) and Employee Wellbeing & Health Handbook ([Staff Wellbeing Handbook September 2023.pdf](#) [sharepoint.com](#))

2.3 Taking Effective Action

The Attendance Management Procedure provides a framework for managing absence and will be particularly helpful in cases where the level of absence is causing concern. Effective use of the Attendance Management Procedure will ensure that managers are supporting employees to enable them to achieve a better and acceptable level of attendance.

It is important to remember that the purpose of the Attendance Management Procedure is not to take formal action or dismiss employees but to advise and counsel them to achieve an acceptable level of attendance. However, employees should be aware that persistent sickness absence is regarded as a serious matter which, in some cases, could result in dismissal.

3. Aims and objectives

3.1 The aims and objectives of the Attendance Management Procedure are to:

- Create a culture where employees feel valued, engaged, committed and involved
- Promote good working practices that support work-life balance,
- Ensure sickness absence is managed in a fair, **supportive** and consistent way
- Make clear the responsibilities placed on employees and managers in managing absence and
- Achieve and maintain levels of attendance which are consistently above the average in the Public Sector by reducing:
 - Overall sickness absence
 - Accidents, and
 - Stress related absence.

4. Principles

4.1. Talking at an early stage can, in many cases, resolve a problem before it becomes long term or chronic. This is why the [Return to Work](#) discussion is a key part of the Council's Attendance Management Procedure.

4.2 If the level of attendance is causing concern it will generally fall into one of the following two categories:

- Persistent/frequent short-term absence or
- Long term absence.

- 4.3 Advice can be sought from the Occupational Health Service, provided by People Asset Management Occupational Health Information Online (PAM OHIO).
- 4.4 Attendance Management Procedure has four subsequent levels, namely:
- Stage 1 – Informal Guidance
 - Stage 2 – Written Warning
 - Stage 3 – Final Written Warning
 - Stage 4 – Dismissal
- 4.5 No formal action will be taken against an employee regarding their attendance without a formal Attendance Management Hearing. Employees will always be given the right of appeal against any formal decision taken.
- 4.6 Informal Guidance/Review meetings will be held to review and monitor an employee's attendance. These can be as frequent as required and will certainly be held between formal Attendance Management Hearings.
- 4.7 Recording and monitoring attendance is a key aspect in managing attendance. Managers have access to all their employees' absence records through BusinessWorld (the Council's HR/ Finance system). Managers will also receive an alert through BusinessWorld and action requires to be taken in accordance with the stages of attendance management within this policy if employees hit the following "trigger points":
- Any absence of 20 days or more (long term)
 - Four or more periods of absence in any 12 month period (frequent short term)
 - Reason for absence is stress/anxiety.

If an employee is absent due to stress/anxiety, managers should refer to [section 8 \(Mental Health and Wellbeing\)](#) for guidance. Managers should only progress through the stages set out within this policy with regards to a stress/anxiety trigger if one or more of the other triggers has also been met, e.g. there has been an absence for stress/anxiety and the employee has been absent for 4 times in a rolling 12-month period.

- 4.8 All employees' absences will be recorded for the purposes of managing attendance.
- 4.9 Equal treatment is important when dealing with poor attendance - this means there should be a consistent approach in every case. If line managers believe there is an issue related to a disability or gender reassignment there may be implications under the Equality Act 2010, and they should contact HR Case Management Team (HR CMT) for further advice.
- 4.10 Pregnancy related absences should be disregarded for the purposes of Attendance Management. HR CMT can provide specific advice if there are issues.
- 4.11 Employees who have an illness which is terminal or life threatening, or who are suffering from mental health issues such as stress or depression, will be particularly vulnerable at this time and may find it difficult to talk openly about their employment and the effect of their condition on their attendance. Line managers should contact HR CMT for further advice if they know or believe this may apply.
- 4.12
- When a manager becomes aware that an employee is suffering from mental health issues, support should be made available through Aviva DigiCare+ Workplace and if necessary the Council's Occupational Health provider.

- 4.13 Staff in HR CMT will offer advice and assistance at any stage in dealing with sickness absence. Contact them on 01835 825015 or askhr@scotborders.gov.uk.
- 4.14 Employees may be referred to Occupational Health (PAM OHIO) for advice on both short and long-term absences.
- 4.15 When an Occupational Health report is received for an employee, managers will immediately send a copy to the employee.

5. Roles and Responsibilities

5.1 Chief Executive and Directors

The Chief Executive and each Director is responsible for the management of attendance within their department, and for determining the level of formal action which is delegated to managers/supervisors within the department. There may, however, be occasions where it is appropriate for an Attendance Management Hearing to be conducted by Officers from another Department.

5.2 Line Managers

As a line manager you should at all times be aware of any patterns that are developing, so that you can take the necessary action. You are able to access the level of absence for each of your employees on BusinessWorld. You should check these regularly and take appropriate action. **Do not rely on anyone else to prompt you!** It is essential that you deal with persistent absence promptly, supportively and consistently. Employees who are absent, particularly those on long term sick leave, may feel isolated and insecure. It is therefore important that line managers keep in regular contact and provide support and advice, consulting with HR Case Management Team as required.

5.2.1 A line manager will:

- Record all periods of absence and carry out a return to work review with the employee after each period of sickness absence on Business World
- Monitor attendance.
- Use attendance patterns and trigger alerts.
- Inform employees of their first point of contact on attendance issues
- Follow up with employees where concerns are evident and take action as appropriate.
- Act promptly, fairly and consistently
- Make full use of all the expertise, information and support available, and never evade the issue.
- Keep in regular contact as agreed with the employee, providing support and advice.
- On becoming aware that an employee is suffering from mental health issues, make available support from the Council's EAP and if appropriate Occupational Health providers.
- Seek advice from HR CMT when an absence is or may be related to the Equality Act 2010 (See paragraph 7)
- Make arrangements for anyone who is unwell to leave work safely and/or receive medical treatment.

5.3 Employees

- 5.3.1 A basic requirement of all staff employed by the Council is to maintain an acceptable level of attendance. Employees should be aware that persistent sickness absence is

regarded as a serious matter which, in some cases, could result in formal action being taken. Under the Health & Safety at Work Act, every employee has a legal duty to take reasonable care for their own Health & Safety. This includes co-operating with the employer, as necessary, to help in the employer's compliance with their legal duties.

5.3.2 Employees will:

- Take measures to keep absence from work to a minimum
- Talk to line managers about any personal need to take time off, and arrange, wherever possible, so that family responsibilities do not restrict availability for work at the expected times.
- Seek primary health care eg dentist, GP as appropriate
- Follow the agreed procedures if unfit for work.
- Co-operate with requests to attend Occupational Health appointments.
- Maintain contact during periods of absence, including long term absence as agreed with the manager.
- Return to work as soon as appropriate.
- Communicate with line managers prior to and on return to work.
- Be familiar with and comply with the conditions which apply to the continued payment of sick pay – information on sick/nil pay can be found in Terms and Conditions of Employment. Instructions on accessing payslips can be found [here](#).
- Seek clarification from line managers (or HR Case Management Team) if unclear about any aspect of the Attendance Management Procedure
- Inform line managers if absence is or may be related to the Equality Act 2010
- If taken ill or injured while at work, report to the line manager or service area's first aider.

5.4 Human Resources

5.4.1 The role of HR Case Management Team is to offer line managers advice on procedures and provide assistance in individual cases. They can provide the following support and advice on how to:

- Conduct meetings with employees about sickness absence.
- Manage absences which may not be genuine (through disciplinary procedures)
- Manage short and long term absences.
- Refer an employee to Occupational Health and the appropriate stage for referral.
- Advise on salary implications in individual cases.
- Ensure the policy and procedure is applied correctly.
- Monitor employee attendance.
- Advise on absences that are or may relate to the Equality Act 2010. (See [paragraph 7](#))
- Assist employees and managers in interpreting Occupational Health Reports (where required).

5.5 Occupational Health

5.5.1 People Asset Management (PAM) is Scottish Borders Council's current Occupational Health provider. They offer a variety of services to assist managers and employees on a wide range of issues. It is not necessary that an employee is off sick to be referred to Occupational Health. Referrals may be made as a preventative measure. All referrals to PAM are made online, normally by the employee's line manager using PAM OHIO.

5.5.2 As detailed above, if an employee is suffering from mental health issues, such as stress or depression, the manager must ensure that support is available from Aviva DigiCare+ Workplace and, if appropriate, PAM and that the employee is aware of this.

5.5.3 Medical advice will be sought at the earliest opportunity in order to:

- Avoid absence.
- Assess the likely duration of the absence.
- Assess whether there are other factors which are affecting the absence.
- Advise managers about any limitations or work-related restrictions and their likely duration.
- Advise managers about rehabilitation and the need for a phased return to work.
- Advise on specific support, or reasonable adjustments that may be required by an individual and any equipment which may be useful and
- Assess the likely eligibility of an individual for ill health retirement.

5.5.4 During or after a lengthy period of absence, or series of absences, an employee may be required by the Council to attend the Occupational Health Service or other medical adviser for independent advice. This appointment will be to assess the employee's current health condition and fitness/suitability for returning to their current job. It is expected that this referral will be considered after 4 - 6 weeks of absence, or after a number of frequent short-term absences. Line managers may also request that the Occupational Health Service obtain an opinion from the employee's GP or, if appropriate, Consultant.

5.5.5

Separately there is also a number of wellbeing services which available through Aviva DigiCare+ Workplace. This is an easy-to-use app that offers guidance and care for both physical and mental health.

Employees can register for the Aviva DigiCare+ Workplace app as follows:

- Download the Aviva DigiCare+ Workplace app from the App Store or Google Play
- To register, use your personal email (not your SBC one) and enter the pin number which is 8245

5.5.6 Occupational Health consultations with employees are confidential and reports and advice are provided in general terms only, i.e. they do not normally specify medical conditions but report on the impact of a condition on the employee's role. Help is available in interpreting the report, where required, from both PAM and HR CMT. Where Occupational Health wishes to obtain information from the individual's GP or Consultant, they will seek the employee's consent by obtaining a signed employee consent form (in accordance with The Access to Medical Reports Act 1988).

6. Medical appointments

6.1 For Hospital or other medical appointments please see the [Special Leave Guidelines](#)

7. Equality Act 2010 and Attendance Management

7.1.1 The Council is committed to the principles of equality of opportunity that underpin the Equality Act 2010, both in the provision of services and in its role as an employer. In pursuing these commitments, the Council acknowledges its statutory duties under the Act, which specifically protects people who may experience discrimination, whether direct or indirect; harassment or victimisation in the workplace.

7.1.2 No employee, job applicant, customer or recipient of services will receive less favourable treatment than any other on any grounds including the following: Race, colour, nationality or ethnic origin, religion or belief, sex, gender reassignment, sexual orientation, marital status, age, or disability.

7.1.3 Whilst this section refers to the Equality Act and Managing Absence it will not feature all of the protected characteristics. This is because with the exception as detailed below there should be no extraordinary considerations to be made whilst working through the procedure.

7.2. Disability

7.2.1 The Council's aim is to promote equality of opportunity for all employees and make reasonable adjustments to policies which disadvantage disabled employees.

7.2.2 [Appendix 1 contains guidance on "Managing employees with a disability"](#). This guidance should be referred to when absence is related to or may be related to an employee's disability. Managers must also take advice from HR in this situation.

7.2.3 The Council is aware that sickness absence may result from a disability. At each stage of the Attendance Management Procedure (see [paragraph 14](#)), particular consideration will be given to whether there are **possible reasonable adjustments** that could be made to the requirements of a job or working arrangements that will provide support at work and/or assist a return to work.

7.2.4. If an employee considers that they are affected by a disability or medical condition which affects their ability to undertake their work, they must inform their line manager or in exceptional cases, the Council's HR Department. Managers must then contact HR for guidance. In order to support employees they are encouraged to disclose their medical conditions, including any disabilities, although there is no legal obligation to do so.

7.2.5. The Council will fund the reasonable cost of any adjustments that will provide support to an employee at work and/ or assist a return to work. Funding may also be available from external organisations, such as Access to Work. <https://www.gov.uk/access-to-work/apply>.

7.2.6 Whilst the Council will endeavour to make reasonable adjustments, employees should be aware that unreasonable amounts of sickness absence is regarded as a serious matter which, in some cases, could result in dismissal and/ or retirement through ill health.

7.2.7 This situation will usually arise only after other options to enable the employee to continue working have been considered and exhausted.

8. Sickness absence reporting procedure

8.1 1 - 7 days (inc. weekends) – self certification

Where an employee is prevented by sickness from reporting for duty, the employee or some other person acting on their behalf, must telephone their line manager, by their normal starting time on the first day of absence. The following details should be provided and recorded:

- Employee details (Name, section/location, contact details)
- The absence details (first day of illness or injury, whether or not a workplace accident/incident)
- Reason for Absence
- Expected date of return
- Any outstanding or urgent work that requires attention,

If the employee does not make contact with their line manager directly, they must do so by the next day or as soon as they are able. The employee should also maintain regular contact with their Line Manager. This **must** be agreed between the Line Manager and employee when the absence is first notified and depending on the reason for the sickness absence.

- 8.1.2. If the employee is injured while at work, the matter must be reported to the line manager and the employee taken to the service area's first aider to assess the situation. Line managers must make arrangements for the employee to leave work safely and/or receive medical treatment and contact the Health and Safety Section where necessary.
- 8.1.3 Line Managers must ensure that if an accident, incident or near miss occurs, a report is made within 3 days using 'assure', the Council's Health and Safety system. More information can be found on the intranet under ['Your Job- Health & Safety'](#)
- 8.1.4 When first notified of an employee's absence the line manager must ensure that the absence is immediately recorded in BusinessWorld. More information can be found on the intranet under ['Your Job' – Business World – HR.](#)

8.2. 7 days and over

- 8.2.1 Where the employee's absence extends beyond seven days, the employee must obtain and submit a "Statement of Fitness for Work" from their GP stating that the employee is not fit for work and the reason(s) why. The statement must be forwarded to the line manager (as soon as possible and within no later than three working days) to cover the period of absence from the 8th day onwards. If the absence continues, further medical certificates must be provided timeously to cover the whole period of absence with no gaps in dates.
- 8.2.2. Where the employee's absence extends beyond seven days, the manager should agree with the employee a contact period to allow the opportunity to discuss the current position. The nature and duration of the absence will determine how often the contact should take place; however, it is important to take a common sense approach when determining the contact period.
- 8.2.3 This contact should cover issues such as a date for a prospective return to work, or if any more information about the absence has become available after, for instance, following a visit to the employee's doctor.
- 8.2.4 If an employee has been issued with a "Statement of Fitness for Work" from their General Practitioner (GP), the employee for that stated period will be unavailable for work for all positions held within the Council (unless the GP specifies they are fit for a particular post). Failure to observe these rules will result in the withholding of payment by the Council of Statutory Sick Pay and/or Occupational Sick Pay and may result in disciplinary action.
- 8.2.5 The Council reserves the right to request employees to provide a "Statement of Fitness for Work" for any absence **of seven days or less**. In this case any cost incurred in obtaining the certificate will be met by the Council.
- 8.2.6 The manager will forward the completed "Statement of Fitness for Work" certificate to HR Shared Services.

Mental Health and Wellbeing

If an employee believes they are displaying symptoms of stress, and they believe the symptoms are work related, they must complete a [Stress Management Report Form \(AM3\)](#) and forward to HR CMT. They will determine, based on the employee's preference, whether to pass the information to the Line Manager or to contact the employee direct to discuss any potential course of action.

Should the symptoms be non-work-related then the AM3 form may still be used to enable the situation to be reviewed. A list of support agencies is attached to the AM3, and the employee is always encouraged to contact their GP. This form can also be used when the employee has not been absent from work.

Further information on support available for mental health and wellbeing is contained in the [Mentally Healthy Workplace and Stress Management Policy and Guidance](#).

9. Return to work meetings

- 9.1 On return to work, **following each period of absence**, the Line Manager must have a discussion with the employee, which is also recorded on Business World This should normally happen on the day of return and ideally before re-commencing their duties.
- 9.2 A return to work meeting enables the line manager to confirm the details of the employee's absence and that they are fit to attend work. It also gives the employee the opportunity to raise any concerns or questions that they may have and to bring any relevant matters to the line manager's attention. Any other support required will be discussed and the employee will be updated on activities which have taken place during their absence.
- 9.3 In most cases this discussion will be straightforward and informal. However, in some instances it may be necessary to hold an informal attendance Guidance/Review Meeting to consider whether the level of attendance is acceptable. All discussions must be treated with the utmost confidentiality at all times.
- 9.4 In addition, where the GP has provided a certificate stating that the employee "may be fit for work" subject to relevant conditions the line manager and employee must discuss any additional measures that may be needed to facilitate the return to work, taking into account the GP's advice. This discussion must take place before the employee returns to work.

Notes for Line Managers only

- 9a It is important that Return to Work meetings are conducted fairly and consistently - following the basic framework outlined in [Appendix 5](#) should create consistency of approach across the Council.
- 9b The line manager is required to immediately record the employee's return to work on Business World. More information can be found on the intranet under ['Your Job' – Business World – HR](#).
- 9c Line Managers are responsible for ensuring that individual absences for each employee are recorded on Business World and monitored on an ongoing basis. By doing this, any absence problems will be detected at an early stage.

- 9d All sickness absence must be recorded on BusinessWorld. “Trigger Points” (see [paragraph 4.7](#)) have been set up within BusinessWorld which highlight frequent short term absences, long term absences, and any absence related to stress or anxiety. Managers will receive an alert through BusinessWorld if one of their employees reaches a Trigger Point.
- 9e Managers have access to all their employees’ absence records through BusinessWorld. In order for the line manager to effectively manage attendance, it will be necessary to monitor these regularly. It is recommended that the model form, ([EMPLOYEE ATTENDANCE RECORD AND CONTACT SHEET.docx \(sharepoint.com\)](#)), is used as well as monitoring BusinessWorld. This should be retained in a confidential folder. This will enable levels and patterns of absence to be identified that may give cause for concern. All working days/part days’ absence should be included when recording absences on the record form.

Business World automatically records the period of absence. These are as follows:

1. Employee contracted to work Monday - Friday

Absence from Friday to Tuesday inclusive:

Total days sick for **Attendance Management Procedures = 3 days** (Saturday & Sunday not counted)

2. Employee contracted to work Sunday - Saturday

Absence from Friday to Tuesday inclusive

Total days sick for **Attendance Management Procedures = 5 days**

10.a Sickness During Annual Leave

10.1a SBC Employees (not including SNCT)

If an employee falls sick during a period of annual leave and they submit the appropriate “Statement of Fitness for Work” certificate to the Service Manager by the earliest practicable date, normally immediately on return to work, the period of sickness absence shall be treated as sick leave and not as annual leave.

10.2a SNCT Employees

Where a teacher or music instructor, owing to certified sickness, has been incapacitated for a continuous period of eight consecutive days or more, the employee will accrue compensatory leave of two days for every five days of designated annual leave which cannot be taken, subject to a maximum credit of eight such days accruing in any one leave year.

In agreement with the Council, this entitlement shall be taken by the employee following their return to work. The timing of this leave is subject to the overriding needs of the service and should normally be taken in the term in which the return to work takes place or within the following term.

10.b Annual Leave During Sickness

Employees continue to accrue annual leave when they are absent from work due to sickness. They may elect to take annual leave during their period of sickness absence

but cannot be compelled to do so. For the purposes of absence monitoring, the sickness absence will continue during this period as normal, however this will enable employees to take their paid annual leave should they be on nil/reduced pay, for example. Line Managers can approve such absences on Business World. There are different arrangements for SNCT or term-time employees.

11. Unauthorised Absence

11.1 Absence that has not been notified according to the sickness absence reporting procedure will be treated as unauthorised absence and dealt with under the Council's Disciplinary Procedure This may result in disciplinary action being taken up to and including dismissal. Unauthorised absences are usually unpaid.

11.2 If an employee does not report for work and has not telephoned their line manager (or in their absence, another manager in the team/service) to explain the reason for the absence, the line manager should try to contact the employee by telephone and in writing if necessary. Where appropriate advice should be sought from HR CMT.

12. Pattern Absence

12.1 If an employee is not recorded as reaching one of the "trigger" points but there is a regular pattern to their absence, the line manager should discuss this with the employee and may still follow the stages for attendance management set out within this policy. Examples of pattern absences could be where an employee is frequently absent following a period of or prior to annual leave, during/after certain events, or on specific days (such as Friday / Monday). We recognise that patterns can be coincidental, or may even be indicative of other underlying issues. These conversations must always be approached from a supportive position.

13. Occupational Sick Pay Entitlements

13.1. If the employee satisfies the qualifying conditions, as set out in their appropriate Scheme of Pay and Conditions of Service, their entitlement to sickness allowance will depend on length of service as follows:

13.2 SBC Employees (not including SNCT)

Service at commencement of absence from duty	Full Allowance for	Half Allowance for
Less than 26 weeks	Nil	Nil
26 weeks or more but less than 1 year	5 weeks	5 weeks
1 year, but less than 2 years	9 weeks	9 weeks
2 years, but less than 3 years	18 weeks	18 weeks
3 years, but less than 5 years	22 weeks	22 weeks
5 years and over	26 weeks	26 weeks

13.3 SNCT Employees

Service at commencement of absence from duty	Full Allowance for	Half Allowance for
Less than 18 weeks	Nil	Nil
18 weeks or more but less than 1 year	1 month	1 month

1 year, but less than 2 years	2 months	2 months
2 years, but less than 3 years	4 months	4 months
3 years, but less than 5 years	5 months	5 months
5 years and over	6 months	6 months

13.3.1 Where an SNCT employee has had a break in service due to maternity reasons previous service will count where the break is not more than eight years.

13.3.2 A guide to statutory sick pay is contained in [Appendix 11](#).

13.4 State Benefits Received During Absence

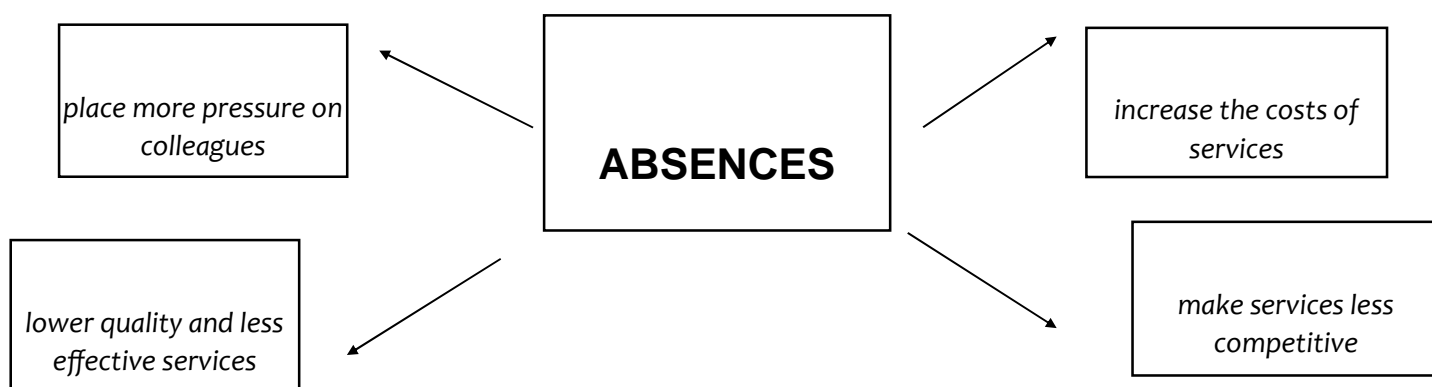
If the employee receives Employment and Support Allowance during their period of absence, they must inform the Payroll Team of HR Shared Services at Council HQ immediately in order that any adjustments in respect of Occupational Sick Pay can be made. Any correspondence from Jobcentreplus regarding these allowances should also be forwarded to the Payroll Team. If required, copies will be taken and the originals returned.

13.5 Pay when on phased return

During a phased return to work the employee will be paid for their contractual hours. The phased return period should not exceed four weeks other than in exceptional circumstances. If a phased return of longer than four weeks is proposed advice must be sought from Occupational Health/GP and HR CMT.

14. Attendance management procedure

14.1 An employee's absence can impact in various ways, for example creating more pressure on immediate colleagues, reducing the efficiency, effectiveness and quality of services.



14.2 It is important therefore that line managers are familiar with and follow the Attendance Management Procedure contained within this section. Appendices [4](#), [5](#) and [6](#) contain flowcharts describing the procedure.

The Council's attendance management procedure requires a [Return to Work](#) meeting following each period of absence, then has 4 levels:

- Stage 1 –Informal Guidance
- Stage 2 – Written Warning

- Stage 3 – Final Written Warning
- Stage 4 – Dismissal

15. Conducting a Return to Work Meeting

- 15.1 On return to work, **following each period of absence**, every employee must have a short discussion with their Line Manager (either in person, via Microsoft Teams or by telephone). This should normally happen on the day of return and ideally before re-commencing their duties.
- 15.2 It is important that Return to Work meetings are conducted fairly and consistently - following the basic framework outlined in [Appendix 5](#) should create consistency of approach across the Council.

16. Short Term Absences – Informal Guidance/Review Meetings (stage 1)

- 16.1 The disruption caused by short term or frequent short-term absences can often be worse than that caused by long-term absence as the ability to plan work is much harder. If an employee reaches a Trigger Point because of short term absence or a line manager otherwise becomes concerned about the number of times an employee is absent due to illness they will first discuss this informally with the employee in an attempt to find a solution. **This informal guidance may take place during the Return to Work meeting or in a separate review meeting.**
- 16.2 The emphasis will be on improving levels of attendance rather than taking formal action. Support, advice, guidance, counselling and/or training will be provided as appropriate.
- 16.3 Within this informal guidance process the manager will:
- Highlight where levels of attendance are causing concern.
 - Discuss the reasons for the poor record.
 - Consider any potential underlying health problems.
 - Ensure awareness of the need to improve.
 - Decide whether a referral to Occupational Health is helpful to gain independent medical advice.
 - Make and keep confidential records, and
 - Provide the employee with a written record outlining the concerns.
- 16.4 It is essential that the informal stage has been followed before any formal attendance management action is taken to ensure that the employee:
- Is aware that there are concerns regarding their level of attendance.
 - Has been given the opportunity for improvement.
 - Is aware of the possible consequences of continued poor attendance.
- 16.5 As this is an informal process there is no right to Trade Union representation or appeal. However, if support from a colleague is requested it would not normally be denied. Where this stage does not lead to the required improvement in attendance levels then the formal stages will need to be followed.
- 16.6 It is important that the Informal Guidance/Review meetings are conducted fairly and consistently - following the basic framework outlined in [Appendix 6](#) should create consistency of approach across the Council.

16.7 Following the meeting the manager should write to the employee confirming the period of informal monitoring, using [the template](#).

17. Short Term Absences – Formal Stages (Stages 2, 3 and 4)

17.1 Where informal guidance has not led to an improvement in attendance the formal stages will be implemented where the manager believes the level of attendance:

- Is significantly worse than other comparable employees,
- Creates a particular operational difficulty,
- Has gone on for a considerable length of time,
- The employee continues to reach Trigger Points in respect of short term absence or poor overall attendance levels.
- Attendance is otherwise unacceptable in which case seek advice from HR CMT.

Although there are Stages 2, 3 and 4 the formal part of the process does not need to start at Stage 2, depending on the circumstances. Stage 4 can only be invoked without the need to follow any of the prior stages in cases of Ill Health Retirement or long-term absences. Advice should be sought from HR CMT.

17.2 The manager will prepare and submit an [Attendance Management Report](#) to their manager detailing the absence history including referrals to occupational health. The more senior manager will then decide whether or not to hold a formal Attendance Management Hearing and will Chair that hearing.

17.3 If a formal Attendance Management Hearing is considered necessary, as soon as possible after the last absence, the Chair will:

- Make arrangements for a hearing to be held.
- Give the employee 10 working days' notice of:
 - The decision to hold a formal Attendance Management Hearing
 - The date, time and place of the hearing.
 - Who will be present and in what role.
 - Who will be asked to present the case.
 - The right to be represented (by a work colleague or accredited Trade Union representative).
 - The right to submit comments prior to the hearing, and
 - Confirmation that depending on the findings, formal action may result.
- Provide the employee with a copy of the Attendance Management Report together with any other relevant documents.
- Template letters are available for [Stages 2 and 3](#) and [Stage 4](#).

17.4 In exceptional circumstances an employee may be unable to attend the Hearing. If this is the case, the employee or the representative, must contact the Chair of the Attendance Management Hearing at the earliest opportunity and explain the reason. If the Chair, in consultation with HR, considers the reason to be valid the Hearing will be postponed. The Hearing will be rearranged as soon as possible depending on the circumstances for the delay. The employee should be given a second opportunity to attend a Hearing before consideration is given to convening a Hearing in their absence, however there may be exceptional circumstances where this is not feasible.

17.5 Where a Hearing is being arranged at which a decision may be taken in the employee's absence, the employee must be notified of this and given the opportunity to attend, to

send a representative to attend on their behalf or submit a written statement. On-going sickness is not in itself a reason to delay arranging formal hearings.

Note: Where a formal Attendance Management Hearing is to be convened for a Trade Union Representative the case should be discussed with a senior Trade Union Representative or a Full-time Official prior to the hearing.

18. Attendance Management Hearings

18.1 The procedure for conducting an Attendance Management Hearing is appended ([Appendix 7](#)), whereas the letters can be found on Sharepoint ([Pages - Policies, procedures and guidelines \(sharepoint.com\)](#)). The employee has the right to be represented or accompanied by a Trade Union representative or work colleague. The chair of the hearing will be supported by HR CMT who will provide professional advice and take brief notes.

19. Those Authorised to Chair Formal Attendance Management Hearings

19.1 SBC Employees (not including SNCT)

Formal Stage	Hearing	Appeal
2/3. Where Written Warning/ Final Written Warning is possible	Manager to whom immediate Manager/ Supervisor or Foreperson reports	Senior Manager to whom Manager reports
4. Where dismissal is possible	Senior Manager, or Director	Staffing Appeals Committee

19.2 SNCT Employees

Stage	Hearing	Appeal
2/3. Where Written Warning/ Final Written Warning is possible	Principal Teacher/Depute Head Teacher, Manager to whom teacher reports	Head Teacher, Depute Head Teacher, Quality Improvement Officer/ Manager Chief Officer Education or Director, Children and Young People
4. Where Dismissal is possible	Head Teacher, Quality Improvement Officer/ Manager Chief Officer Education or Director, Children and Young People	Staffing Appeals Committee

20. Possible Hearing Outcomes

20.1 The Chair will give the decision of the Hearing and the reasoning for the outcome. The outcome may commence at any level and will depend on the following:

- Nature and impact of poor attendance

- The overall employment record including any current formal warnings. (However, attendance, misconduct and poor performance should be considered separately)
- Any mitigating circumstances.

Formal Warning	Basis for Outcome	Duration
Written warning	Where: <ul style="list-style-type: none"> • Unacceptable attendance levels persist after informal guidance or • Some improvement has been made following a previous formal written warning but it is not felt a final warning is appropriate 	12 months
Final written warning	Where: <ul style="list-style-type: none"> • Unacceptable attendance levels persist after a formal written warning within a 52 week period or attendance levels cause a serious concern 	18 months
Dismissal (with notice)	Where: Continued unacceptable attendance levels persist due to short-term absence during the life span of a final written warning	

20.2 Other Possible Outcomes:

- **Redeployment** may also be a possible option, but only on the recommendation of Occupational Health where the link to the frequent absences is the work undertaken.

21. Conducting a Formal Attendance Management Hearing – Stage 2 – Written Warning

21.1 The procedure to follow for the meeting is outlined at [Appendix 7](#)

21.2 The manager should consider the following before making any decision:

- The number of spells of absence
- Frequency of absence (e.g. are they occurring weekly/monthly etc.)
- The length of the absences compared with the intervals of good health.
- Patterns e.g. frequent Monday/Friday absences, regular part day absences
- The operational effect of the absences
- The impact of the absence on the work of other staff e.g. pressure in coping with increased workload
- The nature of the illness(es)
- Any underlying health problem
- Whether the absence is associated with the Equality Act 2010 (see guidance in [Appendix 1](#))
- The likelihood of recurrence.
- Any mitigating circumstances

21.3 Having listened to any points raised by the employee or their representative and examined any documentation that has been submitted, the manager should decide whether the attendance is acceptable or unacceptable.

Attendance Acceptable - The manager will advise the employee that no action is appropriate at this time but that their attendance will continue to be monitored on an ongoing basis.

Attendance Unacceptable - Advise the employee that a Stage 2 written warning is being issued and that their attendance record will be closely monitored for a period of 12 months. Failure to improve could result in further action being taken at the end of the monitoring period. Deterioration within the monitoring period could result in further action being taken i.e. before the 12 month period has elapsed. After the meeting the manager will confirm the decision [in writing](#). The manager will also need to confirm the completion of the monitoring/review period when reached.

22. Conducting a Formal Attendance Management Hearing – Stage 3 – Final Written Warning

22.1 During the monitoring period if attendance levels are still of a concern the manager must arrange a further formal Attendance Management Hearing. On rare occasions, this stage can be invoked following Informal Monitoring stage should the circumstances warrant it. Examples would include cases where no improvement in Attendance level has been achieved despite several Informal Monitoring periods. Advice should be sought from HR CMT in this instance. The manager will review any absences in the period and having taken into account all relevant information and listened to any comments from the employee or their representative will decide whether the attendance is acceptable or unacceptable.

- **Attendance acceptable** - Advise the employee that their attendance level has now reached an acceptable standard and that the monitoring period has been successfully completed. Indicate to them that the written warning will remain on file until it expires when it will be disregarded. Finally, the manager will advise the employee that their attendance will continue to be observed and that any deterioration in their attendance could result in the instigation of the Attendance Management Procedure.
- **Attendance unacceptable** – The Chair of the Hearing will advise the employee that their attendance record has not reached an acceptable standard and that a Stage 3 **final written warning is being issued**. The Chair will indicate that their attendance will be closely monitored for a period of up to 18 months. Attendance concerns within that period could result in further action being taken before the 18 month period has elapsed. After the meeting the Chair will confirm the decision [in writing](#)

23. Conducting a formal attendance management hearing – stage 4 – dismissal

- 23.1 The manager will arrange a formal Attendance Management Hearing. The Chair will review any absences in the review period and having taken into account all relevant information which is available will decide whether it is considered the attendance is acceptable or unacceptable. **Attendance acceptable** – The Chair will advise the employee that their attendance level has now reached an acceptable standard and that the monitoring period has been successfully completed. Advise them that the **final written** warning will remain on file for a period of 18 months from the date of issue. Following this it will be disregarded. The Chair will advise the employee that their attendance will continue to be observed and that any deterioration in attendance in the 18 month period could result in the instigation of the Attendance Management Procedure which could result in dismissal.

- **Attendance unacceptable** – It is essential that an up to date Occupational Health Report is available. The manager will then prepare the report which will outline all the facts of the employee's absence record, warnings given, and should include references to documentation that has been provided. Having received the report the senior manager should arrange an attendance management hearing. The employee should be given 10 working days' notice in writing of when the review hearing will take place. Additionally the employee should be given the opportunity to submit comments prior to the hearing and should be given the opportunity to be accompanied at the meeting by a Trade Union Representative or work colleague.

The format of the attendance management hearing should follow the procedure laid down in [Appendix 7](#).

The line manager will be required to present the facts of the case and the employee will have the opportunity to present their case.

- Once the Chair has heard the submissions from both sides they will decide, following consultation with HR CMT, whether the attendance record is acceptable or unacceptable. It is the responsibility of the Chair to advise the employee of the decision. If the attendance record is unacceptable the Chair will give the decision that the record warrants dismissal.
- The employee will be advised by the Chair of the Hearing that they are being dismissed due to unacceptable attendance. This should be confirmed [in writing](#) giving the contractual period of notice or alternatively pay in lieu of notice and advising of their right of appeal.

24. Failure to Maintain Improved Attendance

24.1 If, having achieved an acceptable level of attendance at the end of a monitoring period, an employee's attendance once more falls below an acceptable level, it will not be necessary to recommence action from the first formal stage, i.e. Stage 2 written warning Managers should consult HR CMT for advice.

24.2 Any action taken will be dependent on the circumstances of the case.

25. Right of Appeal

25.1 There is a right to appeal against any of the outcomes of the formal Attendance Management Hearings. The name of the person to whom the appeal should be submitted will be included in the letter confirming the outcome of the Hearing. Any appeal made may be submitted by the employee or their representative. It must however be:

- Made within 10 working days of the date of receipt of the letter.
- Submitted in writing giving full details of the reason for the appeal and including any supporting documentation.

25.2 If this procedure is not complied with, the employee will lose the right to appeal, unless there are exceptional circumstances.

25.3 For Decisions taken at Stages 2 and 3

An employee who wishes to appeal against action taken by the Chair, ie issue of Written Warning, Final Written Warning must write to the person specified in the letter, with the grounds of appeal, within ten working days of receipt of confirmation of the action, either personally or through their union representative. Appeals will be conducted, where at all possible, by a relevant senior Manager who has not been involved previously. The procedure for the Appeal Hearing to be conducted by Management is outlined in [Appendix 8](#).

25.4 For Decisions taken at Stage 4

If the employee wishes to appeal against action taken by the Chair, ie Dismissal, they must write to the Director People, Performance & Change with the grounds of appeal, within 10 working days of receipt of confirmation of the action, either personally or through their union representative. Director People, Performance & Change will arrange for the appeal to be heard by the Staffing Appeals Committee. The employee shall be given a minimum of ten working days' notice of a Staffing Appeals Committee Hearing and advised of the procedure which will be adopted, including the right to have a representative present. The procedure for Staffing Appeals Committee Hearings is outlined in [Appendix 10](#). The format in which papers require to be submitted to the Staffing Appeals Committee is detailed in [Appendix 9](#). There are templates for [the employee](#) and [management](#).

25.5 Involvement of a Director

Where a Director is involved in Chairing the hearing, the appeal shall be submitted to the Director People, Performance & Change who shall arrange for the Appeal to be heard by either another Director, or the Staffing Appeals Committee.

26. Long Term Absences

26.1 Long-term absence from work is where an employee is, or is likely to be, absent from work for a **consecutive period of 20 working days or more**.

26.2 If there is an indication that an employee is likely to be absent from work in these circumstances, regular contact with the employee by the line manager must be maintained in order to follow progress and find out whether any practical help can be given by the department. In circumstances where the employee is too ill to maintain contact this may be done through a partner, relative or representative. Managers should use the Contact Sheet ([EMPLOYEE ATTENDANCE RECORD AND CONTACT SHEET.docx \(sharepoint.com\)](#)) to record details of the contact.

26.3 Long-term absence is dealt with differently from short-term absence. The line manager will need to demonstrate sensitivity at all times. The line manager will have to, in consultation with HR CMT, refer the employee to the Occupational Health Service or other medical adviser for an independent opinion. Referrals to Occupational Health may also be made on return to work after a lengthy spell of sickness. Where an employee states work related stress as the reason for absence, a referral to Occupational Health must be made immediately.

27. Referral to Occupational Health

27.1 Employees can be referred to Occupational Health (PAM) for advice on both short term and long term absences. The manager should explain to the employee why it has been decided to refer them for an independent medical opinion and discuss with them the

possible outcomes. The employee will be asked to give consent for the Medical Adviser contacting their GP or Consultant. If no consent is given then the Medical Adviser will only be able to give an opinion based on the information provided by the employee, and managers will need to base the action they take on this limited advice. It would therefore be in the employee's interests to enable the Medical Adviser to seek further details from their GP or Specialist.

27.2 When an Occupational Health report is received for an employee, managers should immediately send a copy to the employee.

27.3 The potential outcomes for long term sickness absence are:

- The condition is **not** permanent and there is an estimated date for return to work. This will normally be acceptable, but depending on the estimated length of the absence consideration may be given as to whether it is reasonable to wait for the employee to return or if they should be dismissed on grounds of capability due to ill health.
- The condition is **not** permanent but there is no estimated date for return to work. Consideration should be given as to whether it is reasonable to wait for the employee to return to work or if they should be dismissed on grounds of capability due to ill health.
- The condition is permanent and the employee cannot return to their current post. The possibility of redeployment should be explored. If redeployment is not available the employment will be terminated on grounds of capability due to permanent ill health.
- The condition is permanent and there is no likelihood of a return to work. The employment will be terminated on grounds of capability due to permanent ill health.

27.4 The possible outcomes for short term absences are:

- Confirmation that the employee has a medical condition, which may continue to result in absences from work.
- Confirmation that the employee has a medical condition, but which should not require further periods of absence.
- Confirmation that there is no underlying medical condition that would necessitate absence from work.
- Advice on reasonable adjustments to the workplace
- Confirmation that the employee has had a medical condition which has required frequent absences, but this has been resolved and should no longer require absence from work.

28. Possible Adjustments

28.1 The following (non-exhaustive) list of examples of adjustments may be considered in managing attendance issues, depending on suitability and availability in each case. In all cases the Equality Act 2010 implications must be considered by managers in consultation with HR. Reference should also be made to the [Reasonable Adjustments Policy](#)

Adjustments to role (temp or perm)	On OH advice, seek mutually agreeable and workable solution. Use a trial period.
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Flexible working (including Home working)	Consider using the Council's Flexible Working Policy.
Modified / reduced duties	On OH advice. May involve a temporary transfer to another team or service and/or in a different location.
Redeployment (temp or perm)	May be feasible depending on circumstances. Managers must seek advice from Human Resources.
Start / finish times	Manager allows employee to vary working day start/finish times for an agreed period without necessarily reducing total hours worked.
Phased Return	Temporary reduction in hours to assist in rehabilitation. Immediately upon return, employee is no longer recorded as sick. Maximum 4 week period unless exceptional circumstances. During the phased return to work the employee will be paid for their normal hours.

29. Unable to Return to Work

29.1 The nature of the illness may mean that it is unlikely that the employee will be able to return to work in the foreseeable future or may be unable to continue to work in their current job. In these circumstances, the line manager, in conjunction with HR should discuss with the employee any appropriate action that may be taken.

29.2 Various options may be available including:

- If there is a need for further medical diagnosis or a period of rehabilitation
- If further actions can be taken to assist the employee
- Changing some aspect of the job to allow for a return to work.
- Moving the employee to part-time hours
- Re-deployment within the Council
- Whether to refer the employee to Occupational Health to determine whether they qualify for ill health retirement
- Whether employment should be terminated. (This is not a medical question but a management decision in the light of available medical advice).
- A discussion with the employee as to whether they may be eligible for ill health retirement and wish to make an application.

30. Formal Attendance Management Hearing

30.1 In cases where for example, it is believed that a recovery will not be made at all or will not be made within a reasonable timescale, consideration may have to be given to terminating the contract, with appropriate notice, on the grounds of capability. If this is the case an Attendance Management Hearing must be called.

- 30.2 In order to do this the line manager will prepare an [Attendance Management Report](#) detailing the history of the case and including any medical opinion provided. The manager preparing the report will present the Report at the Hearing. A more senior Manager will Chair the Hearing. (In certain situation the employee may not be required to attend.)
- 30.3 The employee should be given reasonable notice in writing of when the hearing will take place ([see template](#)) and they should be given the opportunity to submit comments prior to the meeting and also the opportunity to be accompanied at the meeting by a Trade Union Representative or a work colleague. At the hearing:
- It should be explained to the employee that the continued absence is causing concern.
 - The medical advice should be discussed and the employee's opinion should be sought on their condition and a likely timescale for a return to duty
 - The prospects of a return to duty should be discussed and whether anything can be done to facilitate this.
 - Finally, they should be advised that a decision will be made, following consultation with HR, about whether the absence can be accepted any longer.
- 30.4 The employee will be advised of the outcome of the hearing. This will be confirmed in writing ([Pages - Policies, procedures and guidelines \(sharepoint.com\)](#)) If the decision is to terminate employment the employee will receive the contractual period of notice or alternatively payment may be made in lieu of notice. The employee will also be advised of their right of appeal.

31. Combined short-term and long-term absence

Occasionally, employees may reach “triggers” due to a mixture of long and short-term absences. When this occurs, managers will continue to manage sickness absence and will still progress through the relevant stages of the sickness absence process.

Therefore, if an employee has already attended an informal/formal absence meeting in one process and they subsequently meet or exceed a further absence “trigger”, they will move to the next stage in that process. For example:
If they have had a stage 1 (informal monitoring) meeting regarding short term absence and later exceed the long-term triggers during a separate period of absence, they would move to stage 2.

It is important to note that stage 4 is the final stage for both short and long-term absence.

32. Revision of the attendance management procedure

- 32.1 The Director People, Performance & Change has delegated power from the Council to make minor changes to the procedure in agreement with the relevant Trade Unions.
- 32.2 The terms of this agreement will be reviewed at the request of either Scottish Borders Council or the Trade Unions.
- 32.3 The outcomes of this Policy will be reviewed at least every two years. If any trends emerge these will be analysed and appropriate steps taken, potentially including a full review of the policy.

33.4 Additionally, as a minimum an equalities impact assessment of the policy will be carried out every two years in accordance with the Council's HR Policy Review programme or as required by legislative requirements in order that the Policy remains relevant and fit for purpose.

MANAGING EMPLOYEES WITH A DISABILITY GUIDANCE

1. Introduction

Scottish Borders Council's aim is to promote equality of opportunity for all employees and remove or make adjustments to policies which disadvantage disabled employees.

2. Definition of disability

2.1 **Definition of Disability:** A physical or mental impairment and the impairment has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities.

For the purposes of the Equality Act 2010:

"substantial" – means neither minor nor trivial.

"long-term" – means that the effect of the impairment has lasted or is likely to last for at least 12 months. However, cancer, HIV and multiple sclerosis are included from the point of diagnosis. Employees who have had a disability in the past but no longer have one still qualify as disabled.

"normal day-to-day activities" – include everyday things like eating, washing, walking and going shopping.

2.2 A disability can arise from a wide range of impairments which can be:

- Sensory impairments such as those affecting sight or hearing.
- Impairments with fluctuating or recurring effects such as rheumatoid arthritis, ME, chronic fatigue syndrome, fibromyalgia, severe clinical depression and epilepsy
- Progressive, such as motor neurone disease, muscular dystrophy, forms of dementia and lupus
- Organ specific, including respiratory conditions, such as asthma, and cardiovascular diseases including thrombosis, stroke and heart disease.
- Learning difficulties
- Mental health conditions and mental illnesses, such as severe depression, schizophrenia, eating disorders, bipolar affective disorders, obsessive compulsive disorders, as well as personality disorders and self-harming behaviour.
- Produced by injury to the body or brain.

2.3 Under the Equality Act 2010 the Council is required to avoid treating an employee unfavourably because of something arising in consequence of disability (without objective justification) and where a disabled employee is placed at a substantial disadvantage to make reasonable adjustments to the workplace and/or work practices to overcome that disadvantage. These options should be fully explored with assistance from HR CMT. In some situations, limited external assistance with implementing adjustments may be available from disability charities or the Access to Work scheme <https://www.gov.uk/access-to-work/apply>.

3. Reasonable Adjustments

- 3.1 Guidance by the Equalities and Human Rights Commission on the Equality Act 2010 provides examples of adjustments that may have to be made if it is reasonable to do so. Reference should also be made to the [Reasonable Adjustments Policy](#)
- 3.2 One test of reasonableness is that if the cost of making adjustments is anything up to the cost of recruiting and training a new employee then this is reasonable.
- 3.3 This list gives some examples (there may be more) and it may be that one or more steps are necessary. A referral to Occupational Health should be made in the first instance.
- Allocating some of the employee's duties to another person
 - Redeploying the employee to an existing vacancy
 - Altering the employee's hours of working or training
 - Offering work or training at a different location
 - Allowing employees to be absent during working or training hours for rehabilitation, assessment or treatment.
 - Changing instructions or reference manuals
 - Modifying procedures for testing or assessment

Other examples could include:

- Allowing flexible working, such as part-time work, annualised hours, non-standard start and finish times
- Allowing a disabled employee to take a period of disability leave.
- Modifying disciplinary or grievance procedures
- Adjusting redundancy selection criteria

The following table gives some simple suggestions for specific creative adjustments that can be made for certain disabilities or health conditions. Please note, it is not exhaustive, and the adjustments may not work for everyone.

Impairment	Task/difficulty	Adjustment
Hearing impairment	Taking part in meetings	Provide communication support – palantypist, portable audio loop system, BSL interpreter or a support person at any meetings.
Hearing impairment	Contacting the office (for example, to find out the time and location of their next meeting)	Provide a mobile phone so that text messages can be used
Vision impairment	New employee arriving at work	Colleague meets them at the bus stop
Vision impairment	Taking part in meetings	Provide minutes and papers in advance, find out what format the employee requires (e.g. Braille, large print)
Dyslexia	Taking part in meetings	Provide minutes and papers in advance, in a user friendly format
Dyslexia	Writing a report	Provide mind mapping software
Dyslexia or learning difficulty	Taking minutes at meetings	Provide a recording device and allow extra time to type up minutes
Severe asthma	Travelling to meetings using public transport	Provide taxis to and from the nearest public transport

Epilepsy	Long meetings, long days	Frequent breaks, cold drinks, and a fan available
Lupus	Attending work full time all year	Allow flexible working, such as compressed hours
Work related upper limb disorder	Long day working on a PC	Allow rest breaks; provide timing software which will remind the employee to take rest breaks at regular intervals.
Stammer	Taking part in meetings	Provide awareness training for other staff
Severe back pain	Operating a checkout	Full ergonomic assessment and regular rest breaks
Autism	Starting a new job, fitting into a new team	Assign a 'buddy' to assist and explain office culture
Depression	Reception duties from 8am	Adjust shift to best part of day – after 11am
Anxiety	New employee arriving at work	Colleague meets them at bus stop
Anxiety	Travel in rush hour	Allow flexible working so they can avoid the rush hour

4. Disability related sick absence

- 4.1 Disability related sickness absence arises where the employee's sickness absence is related to their disability.
- 4.2 Reasonable adjustments for disability related sickness absence may be made as part of the attendance management procedure but all absence must be recorded and will be taken into account when assessing whether further action should be taken.
- 4.3 Medical information about employees will be kept confidential so far as is practicable unless they agree to disclosure or it becomes necessary as an adjustment (e.g. epilepsy).

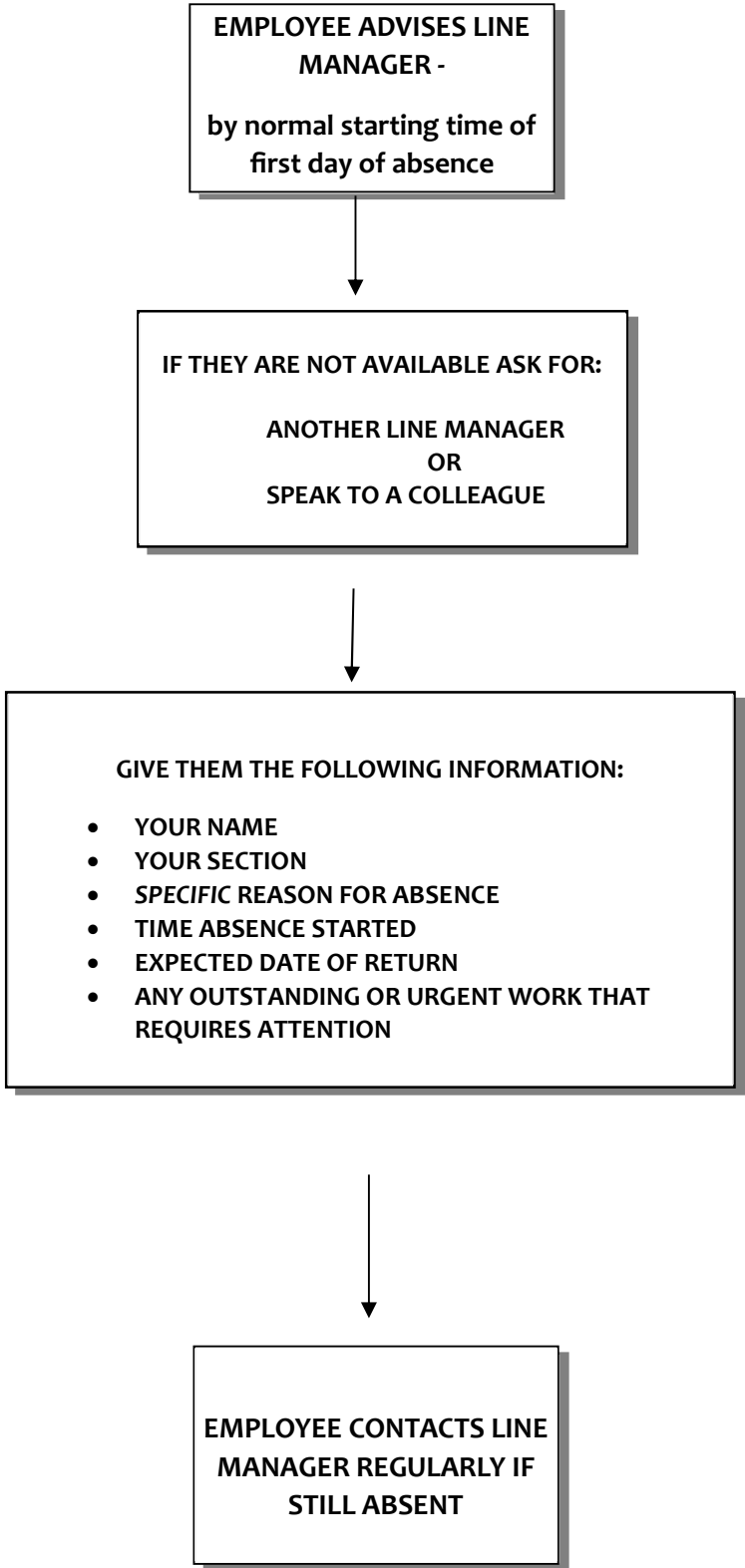
5. Other support

- 5.1 Employees may find the following sources of information and generic guidance helpful:

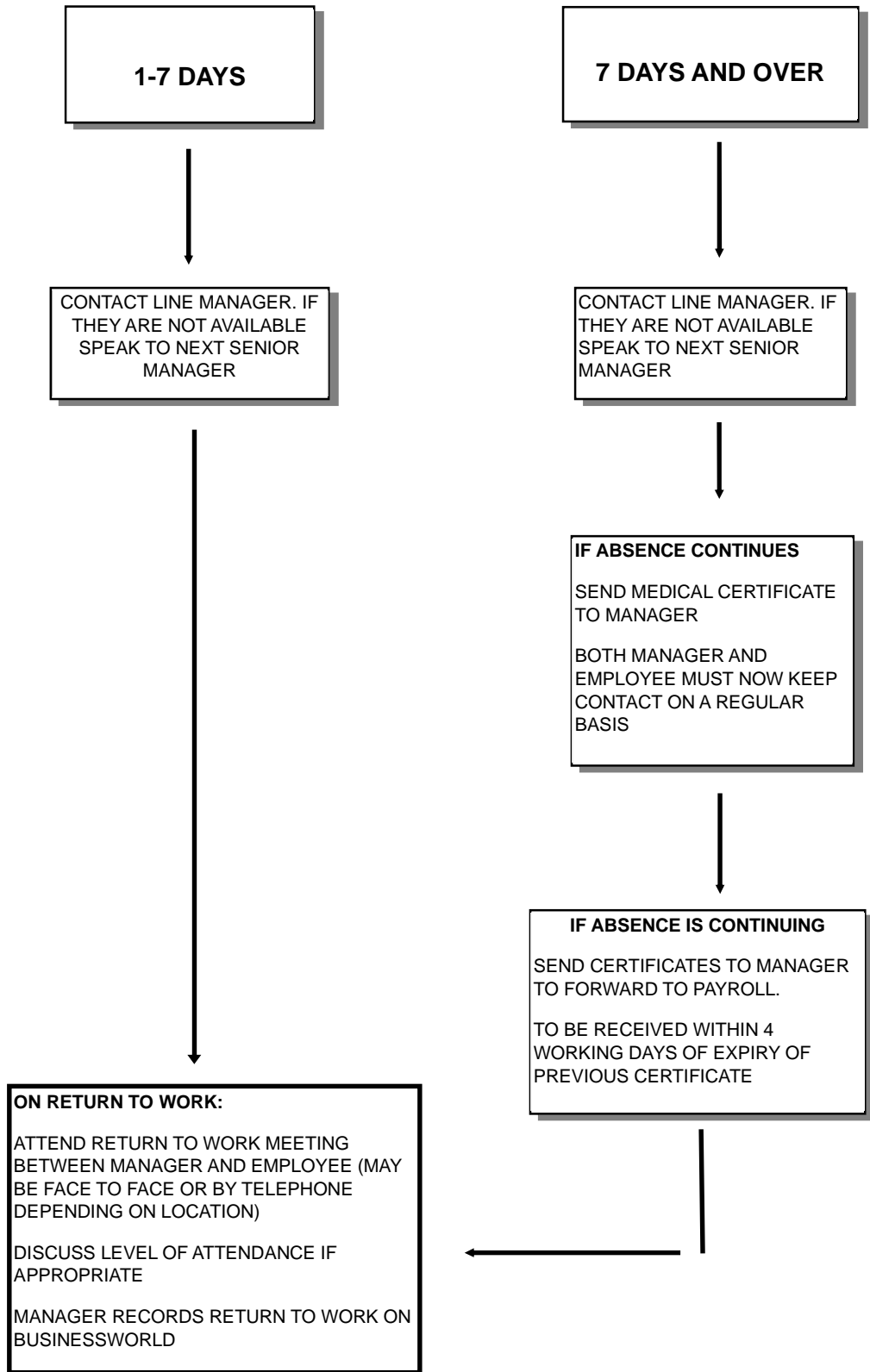
- The Council's Wellbeing and Safety Team: wellbeing&safety@scotborders.gov.uk
- AVIVA DigiCare+ Workplace app : Download on App store or Google Play.
- Direct Gov website – [https://Disabled people - GOV.UK](https://Disabled%20people%20-%20GOV.UK)
- The Citizens Advice Bureau - www.citizensadvice.org.uk
- Access to Work Scheme - www.gov.uk/access-to-work

See also 'Useful Contacts'

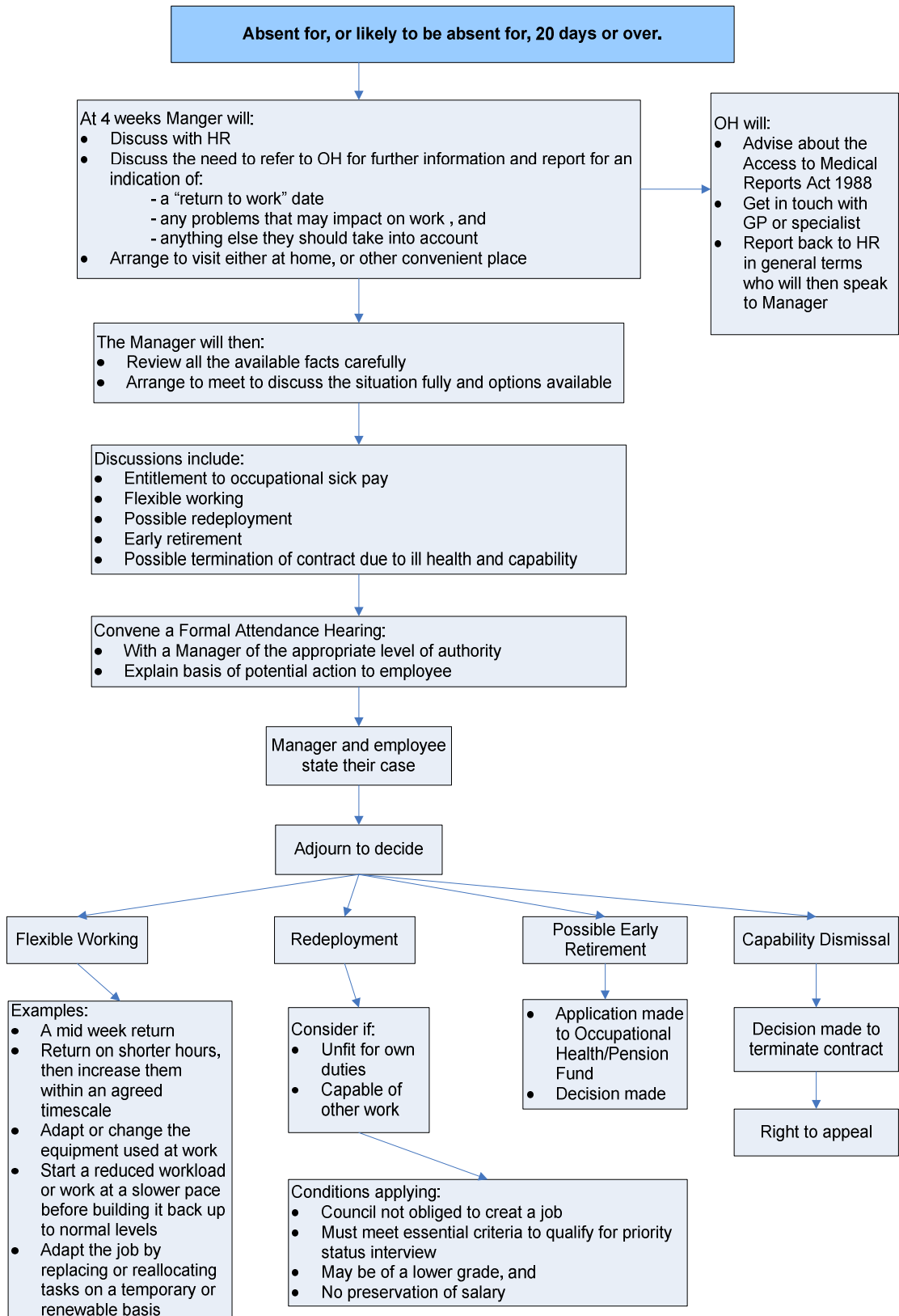
NOTIFYING AN ABSENCE



CERTIFYING AN ABSENCE /RETURNING TO WORK



LONG TERM ABSENCE FLOW CHART



RETURN TO WORK - GUIDANCE

Line Manager's Responsibilities are to:-

At Induction or when the Policy is changed:

- make sure that every employee under your control knows the procedures to follow if they are unable to attend work:

On being informed of sickness absence:

- record the absence on BusinessWorld on the first day of an absence.
- seek support and guidance from your Manager, HR CMT and Occupational Health if required.
- refer the employee immediately to Occupational Health if they are suffering from mental health issues.
- complete the appropriate paperwork.

Return to Work meeting:

- speak with the employee on their return to work (face to face wherever possible, or by phone if not)
- ensure that the employee is fit to do their work and check, eg if any medication is still being taken which may impact on their role.
- be prepared to make short term adjustments if necessary- for example to keep someone off driving vehicles if they are likely to be drowsy.
- consider referral to Occupational Health (ensure a referral is made if the employee is suffering from mental health problems and they have not already been referred.)
- Record the employee's return to work on BusinessWorld.
- ensure any medical certificates are forwarded to Payroll.
- advise the employee, if appropriate, that you are concerned about their levels of attendance and advise that either:
 - you will raise this with your line manager who may want to arrange a separate meeting to fully discuss this, or
 - that you may wish to have a further meeting

To ensure a consistent approach the meeting format below should be followed:

Step 1 – Welcoming the employee back

If the manager has had advance notice of the employee's date of return they should be prepared in advance to welcome the employee back. (If the employee returns to work and the manager believes the employee is not yet fit to do the job then it may be necessary for the manager to send the employee home on full pay until an opinion from Occupational Health can be obtained. The return to work meeting gives the opportunity to update the employee on what has happened during their absence.

Step 2 – Ask about the employee's health

One of the primary reasons for the contact is to provide effective welfare support for all employees. The manager will explore the reason for non attendance gently - in the majority of cases the reason will not be challenged but it is important to explore the situation.

Depending on the nature and duration of the absence it may be necessary to explore some or all of the following:

- Is the employee fit to resume duty?
- Are they returning on a phased basis, if so, what are the arrangements?
- Is the absence work related?
- Have they visited their GP and is there any indication of a prognosis?
- Have they taken any other steps to investigate the cause?
- Are they likely to be absent again?
- Have they considered any preventative measures to ensure it doesn't happen again?
- Can anyone else provide any assistance?

This exploratory part of the meeting will only be beneficial if active listening skills are demonstrated i.e. to listen carefully/respond appropriately.

Step 3 – Next Steps

The information obtained at Step 2 and the employee's previous sickness absence record will determine what happens next.

Depending on the nature of the illness the manager should remind the employee of the necessity for full attendance whenever possible. Furthermore, the employee should be reminded of what they can do to manage their own attendance.

Absence records should identify whether there are levels or patterns of absence which give cause for concern. Managers should also check their employees' attendance records regularly on BusinessWorld and act upon any alerts received through BusinessWorld that an employee has hit a trigger point.

Depending on the attendance record of the employee the stage may be reached where the manager needs to draw attention to the concerns about the employee's level of attendance and indicate that there may now be a need to arrange a formal Attendance Management Hearing.

It is important that the manager adheres to this procedure otherwise the Council could be liable.

STAGE 1 INFORMAL GUIDANCE/REVIEW MEETING: GUIDANCE

To be held where an employee's attendance first becomes a cause of concern and may be included in the Return to Work meeting.

Before the meeting:

- Plan for the meeting, gather all the relevant information from Business World and your files and establish the key issues and facts to be covered.
- Seek support and guidance from your Manager, HR and OH, as required.
- Arrange the meeting, ensuring it is held in private and will not be interrupted.
- Give information in advance of the purpose of the meeting.
- Refer to the Attendance Management Procedure.

At the meeting:

- Fully discuss concerns, clearly saying what the issue is about eg frequency of absence.
- Allow a full response and explanation.
- Use questions to find out if there is any underlying cause of the problem, eg health, workload, procedures, personal life etc.
- Explain clearly what your understanding is of the problem and go back over the established facts.
- Discuss potential solutions eg prioritising workload or temporary change in hours.
- Discuss the expected standards, the standards demonstrated and the gap.
- Encourage improvement, discuss and agree a course of action and future review dates.
- Ensure understanding of the failure to deliver the expected standards and what it may lead to.

After the meeting:

- Accurately document discussions and agreements
- Send a [letter of confirmation](#) to the employee, with all the agreed points noted, keeping a copy for the file.

CONDUCTING A FORMAL ATTENDANCE MANAGEMENT HEARING (STAGES 2,3,4)

To be used where unacceptable attendance levels persist after Informal Guidance or following a previous Written Warning or Final Written Warning.

Before the Hearing the Chair will:

- Seek support and guidance from the Manager, HR and OH
- Flag to HR any concerns surrounding any matters of discrimination, for example Sex, age, marital status, family status, race, religion, sexual orientation, disability
- Refer to the Attendance Management Procedure and agree with HR who should accompany them, either a departmental colleague or a representative from HR.
- Using the standard template ([Stages 2 and 3](#), [Stage 4](#)) prepare and send the letter of invitation to the Hearing. Give notice of at least 10 working days before the due date. Include a copy of the attendance report and any other relevant documents, if appropriate.
- Ensure that any comments received from the employee prior to the Hearing and all relevant papers are made available to all attending the Hearing.

During the Hearing the Chair will:

- Introduce all the parties and explain the purpose and format of the Hearing.
- Enquire if there is a Trade Union representative or work colleague present,
- Require the manager to present the attendance report, to clearly state and explain the expected standards of attendance, the standards demonstrated and the gap.
- Ensure the attendance reports are explained to everyone.
- Examine any mitigating evidence provided which supports the employee.
- Allow a full response, questioning of the evidence, explanation and the presentation of any additional relevant information by all parties.
- Consider any action required because of information provided at the Hearing, for example exploring any medical issues as appropriate.

Adjourn the Hearing to:

- fully consider the case
- allow for further information to be gathered if required (reconvene as soon as possible),
or
- make the final decision as to the appropriate outcome and reconvene.

After the adjournment the Chair will:

Reconvene the Hearing and deliver the outcome orally. This could be:

- no formal warning
- no formal warning (because of evidence presented) but other actions, for example attendance targets could be set.
- Written Warning, Final Written Warning, or Dismissal
- If necessary, advise the employee a decision will be given at a later date.

When dealing with poor attendance, in cases other than dismissal, the Manager will ensure the following is understood:

- the standards of attendance expected.
- how the attendance falls short of this
- what support is going to be available,
- the improvement that is required
- how the attendance will be reviewed in future
- what the timescales are for achieving the improvement.
- that attendance action may be progressed to the next stage if there is no improvement or there is any other separate issue, and
- the right to appeal.

After the Hearing:

Issue a letter, using the relevant standard template letter (available [here](#)), summarising:

- the exact detail of the attendance problem which gave rise to the action.
- the level of warning that has been given.
- the standard of improvement required in future.
- where appropriate any review period
- the employee's right to appeal and the named person who would hear that appeal.

Also, (with the exception of dismissal), the Chair will ensure:

- the expected standards in terms of attendance are understood.
- the employee's attendance is monitored as agreed throughout the set period.
- that a further breach may result in further formal action (including dismissal where appropriate)

In addition they will:

- Copy the letter, all papers and any other relevant documents to HR CMT for retention on the employee's personal file

CONDUCT OF APPEAL BY MANAGEMENT

Introduction

1. The Chairperson should introduce those present, explain that the purpose of the Hearing is to consider an appeal against formal action and outline how the hearing will be conducted.

Statement of Case by Management

2. The manager shall state what the complaint or allegation is and outline the case briefly by going through the evidence which has been gathered. This may include calling witnesses if appropriate and disclosing any witness statements and the contents of any other records and documents.

Questions on Management Case

3. The employee (or representative) is given the opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
4. The manager shall be given a further opportunity to question any witnesses on issues raised during the employee's (or representative's) questioning.
5. The Chairperson and their advisers are given the opportunity to ask questions at any stage to clarify the case.

Statement of Case by Employee (or Representative)

6. The employee (or representative) is given the opportunity to state their case and present evidence. This may include calling witnesses if appropriate and ensuring that those present are aware of any witness statements and the contents of any other records and documents.

Questions on Employee Case

7. The manager(s) is given an opportunity to ask questions to clarify the statement of case, including questioning any witnesses.
8. The employee (or representative) shall be given a further opportunity to question any witnesses on issues raised during the employer's (or representative's) questioning.
9. The Chairperson and their advisers are given the opportunity to ask questions at any stage to clarify the case.

Further Questioning and Clarification

10. The Chairperson and any officers advising them may use this stage to clarify any issues and to check that what has been said is understood. Where either party is asked to clarify any point, the other party must also be given the opportunity to comment.

Summing up

11. The manager(s) shall have the opportunity to sum-up if they so wish, introducing no new material.
12. The employee (or representative) shall have the opportunity to sum-up if they so wish, introducing no new material.

Adjournment

13. Any party may request an adjournment at any time during the hearing. It is essential however, that the Chairperson calls an adjournment to allow full consideration of all the matters raised before a decision is taken regarding whether or not the action taken was fair and reasonable.
14. The Chairperson, together with any advisers shall deliberate in private, only recalling the manager(s) or the employee (or representative) to clarify points of uncertainty on the evidence already given. If recall is necessary both parties are to return.
15. Where the facts are unclear the Chairperson may require further information to be provided and in these circumstances the Hearing may need to be reconvened at a later date to hear and consider the additional information. Any additional written information will be copied by the Chairperson to all parties. The hearing must be reconvened as soon as possible.
16. If practicable, the Chairperson shall recall the parties and announce the decision at the conclusion of the meeting. The decision will be one of the following:
 - that the appeal is upheld (any action taken is expunged)
 - that the appeal is not upheld (any action taken is unchanged)
 - that the appeal is upheld in part (Chairperson to substitute any appropriate action)
17. In any event the Chairperson shall confirm the decision [in writing](#) to the employee (or representative) within **10 working days** of the Hearing.

FORMAT FOR PREPARING PAPERS FOR THE COUNCIL STAFFING APPEALS COMMITTEE

In the event of dismissal, an employee may appeal to a Council Staffing Appeals Committee, for the appeal to be heard by elected members. An appeal to this Appeals Committee may also take place where a Director takes some other form of disciplinary action which the employee does not accept.

The receipt of the Committee papers will be the first sight or knowledge the members have of a particular case. This is to ensure the members' objectivity in hearing the appeal. It would be especially useful therefore for both the manager and the employee to ensure that their papers:

- are arranged in logical order.
- have each page numbered.
- include a content index.
- have pages cross referenced where necessary.

The manager and the employee will each be asked to submit a written statement of their case, including any papers to which they wish to refer, to the Clerk to the Council to be received at least 10 working days before the date of the appeal hearing.

The Clerk to the Council will arrange for the papers, including the statements of case to be sent to the manager and the employee, as well as to the Committee members and any advisors.

At the appeal hearing there is a running order of events (see '[Conduct of Appeal by Committee](#)'). The statement of case by the employee follows the introduction by the Chair. The employee may be accompanied (see para 17) and the manager may be supported by an HR or Legal adviser.

Each party must decide whether to call witnesses or whether they wish to rely on their formal submissions. Witnesses may be useful if it is considered there is likely to be any contentious issues and a first hand account would carry more weight.

If the employee is calling witnesses it is their responsibility to arrange their attendance and names must be submitted to the Clerk to the Council 10 days before the date of the appeal.

Irrespective of the formal submissions, it would be normal for the parties to begin with a verbal summary. This would normally be an abbreviated version of the statement of case, which can be referred to as need be. It would be helpful if a copy of the script for the verbal summary (if available) could be given to the Council Staffing Appeals Committee on the day.

This policy provides a template, as guidance, for [managers](#) and [employees](#) to use when preparing papers for the Council Staffing Appeals Committee. Whilst it is important for sufficient information and papers to be provided to enable the Committee to reach a decision, both parties should be selective about what they submit, because an excessive quantity of papers can sometimes reduce rather than increase clarity.

CONDUCTING AN APPEAL BY COMMITTEE

Introduction

1. The Chairperson should introduce those present, explain that the purpose of the Hearing is to consider an appeal against formal action and outline how the hearing will be conducted.

Statement of Case by Management

2. The manager(s) shall state what the complaint or allegation is and outline the case briefly by going through the evidence which has been gathered. This may include calling witnesses if appropriate and disclosing any witness statements and the contents of any other records and documents.

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4. The manager shall be given a further opportunity to question any witnesses on issues raised during the employee's (or representative's) questioning.
5. The Appeals Committee and their advisers are given the opportunity to ask questions at any stage to clarify the case.

Statement of Case by Employee (or Representative)

6. The employee (or representative) is given the opportunity to state their case and present evidence. This may include calling witnesses if appropriate and ensuring that those present are aware of any witness statements and the contents of any other records and documents.

Questions on Employee Case

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8. The employee (or representative) shall be given a further opportunity to question any witnesses on issues raised during the employer's (or representative's) questioning.
9. The Appeals Committee and their advisers are given the opportunity to ask questions at any stage to clarify the case.

Further Questioning and Clarification

10. The Appeals Committee and their advisers may use this stage to clarify any issues and to check that what has been said is understood. Where either party is asked to clarify any point, the other party must also be given the opportunity to comment.

Summing up

11. The manager(s) shall have the opportunity to sum-up if they so wish, introducing no new material.
12. The employee (or representative) shall have the opportunity to sum-up if they so wish, introducing no new material.

Adjournment

13. Any party may request an adjournment at any time during the hearing. It is essential however, that the Chairperson calls an adjournment to allow full consideration of all the matters raised before a decision is taken regarding whether or not the formal action taken was fair and reasonable.
14. The Appeals Committee, together with any advisers shall deliberate in private, only recalling the manager(s) or the employee (or representative) to clarify points of uncertainty on the evidence already given. If recall is necessary, both parties are to return.
15. Where the facts are unclear the Appeals Committee may require further information to be provided and in these circumstances the Hearing may need to be reconvened at a later date to hear and consider the additional information. Any additional written information will be copied by the Chairperson to all parties. The hearing must be reconvened as soon as possible.
16. If practicable, the Chairperson shall recall the parties and announce the decision at the conclusion of the meeting. The decision will be one of the following:
 - that the appeal is upheld (formal action is expunged)
 - that the appeal is not upheld (formal action is unchanged)
 - that the appeal is upheld in part (Chairperson to substitute any appropriate formal action)
17. In any event the Clerk to the Committee shall confirm the decision in writing to the employee (or representative) within **10 working days** of the Hearing.

STATUTORY SICK PAY GUIDANCE

1. The Council is responsible for paying sickness benefit, known as Statutory Sick Pay (SSP), for any period of incapacity to work **up to a maximum of 28 weeks**. If the absence extends beyond 28 weeks, HR Shared Services will send the employee an SSP1 form prior to the end of the 28 weeks which will allow the employee to make a claim for Employment and Support Allowance (ESA). Any "Statement of Fitness for Work" certificate(s) held by HR Shared Services, covering the period after SSP has ended, will be returned to the employee along with the SSP1 form.
2. All employees are covered by the SSP scheme if they are sick for 1 or more consecutive calendar days including Saturdays, Sundays, public holidays and annual leave. SSP is only payable for agreed "qualifying days" of sickness.
3. **Excluded from receiving SSP**

The Council may not be able to pay SSP if the employee falls into an excluded category. If the employee has been excluded they will be sent an SSP1 form which will give the reason why and will explain how to make a claim for ESA. Any "Statement of Fitness for Work" certificate(s), received in HR Shared Services, will be returned to the employee along with the SSP1 form.

4. **SSP Payment**

- 4.1 SSP will be paid with wages/salary and may be recovered against any Occupational Sick Pay (OSP) received.
- 4.2 The employee will be required to comply with the attendance management notification and certification procedure when absent from work in order to ensure the correct and prompt payment of the appropriate allowance.
- 4.3 Failure to observe these rules will result in the withholding of payment by the Council of Statutory Sick Pay and/or Occupational Sick Pay and may result in disciplinary action.

ILL HEALTH RETIREMENT AND PENSIONS

SBC Employees (Excluding SNCT Employees)

1. Local Government Pension Scheme regulations have a 2 tier ill health structure for members who have at least two years' membership (or have transferred service in from another pension scheme). To qualify for ill health benefits, an employer must be satisfied that a person is permanently incapable of doing their own job.
2. Whether or not a person is permanently incapable of carrying out the duties of their employment requires to be certified by an independent registered medical practitioner (qualified in occupational health medicine). P.A.M. would normally fulfil this function, and a Certificate of Permanent ill Health would be completed. HR CMT would advise on this process.
3. **Tier 1 ill health retirement**
Applies where there is no reasonable prospect of a person obtaining gainful employment before age 65. Benefits are based on the person's actual membership to the date of leaving plus prospective membership to age 65.
4. **Tier 2 ill health retirement**
Where there is a reasonable prospect of a person obtaining gainful employment before age 65. Benefits are based on the person's actual membership to the date of leaving plus 25% of prospective membership to age 65.
5. For part time employees, periods of extra membership are scaled down in proportion to part time hours worked at date of leaving against full time equivalent hours at that date.
6. "Gainful employment" means paid employment for not less than 30 hours in each week for a period of not less than 12 months.
7. "Permanently incapable" means that a member will, more likely than not, be incapable until at least age 65.

SNCT Employees

1. If under normal pension age (NPA (age 60 or age 65 for someone joining the STSS on or after 1 January 2007)) and having to retire through ill health, the member can apply for ill health benefits. Applications should only be submitted after all other avenues such as redeployment have been exhausted. The member must provide medical evidence that their illness permanently prevents them from teaching. Ill health benefits can be paid at two different levels depending upon the severity of the illness: Total Incapacity Benefits (TIB) and Partial Incapacity Benefits (PIB).
2. TIB would be awarded if the member is assessed as being permanently unable to teach, their ability to carry out any other work is impaired by more than 90% and is likely permanently to be so. PIB would be awarded if the member is assessed as being permanently unable to teach but can do other work. If the member receives TIB their service will be enhanced but if the member receives PIB it will be based on their accrued benefits.
3. If the member is not in pensionable employment and is not on sick leave or parental leave, only PIB can be awarded and their service will not be enhanced, but the member must meet the criteria for TIB.

4. The total amount of enhancement the member may receive if awarded TIB is half the service the member could have completed before NPA.
5. No enhancement will be given if the member is awarded PIB.
6. Ill health benefits cannot be awarded to a teacher who has been barred for misconduct or who is under investigation with a view to barring. Where a teacher under investigation is not subsequently barred and an application for ill health benefits is accepted, the benefits will be backdated.
7. A teacher cannot normally obtain ill health benefits if they have already been awarded premature retirement benefits. If the teacher is seriously ill, their ill health pension may be commuted to a lump sum payment. The request for commutation must be made at the time of application for ill health benefits: a pension cannot be commuted once it has come into payment. Life expectancy must be less than a year. The lump sum payment amounts to approximately five times the annual pension.
8. If the teacher has not been in service long enough to qualify for ill health benefits, they can apply for a short service incapacity grant. The teacher must have at least one year of pensionable employment, and must apply within 12 months of leaving reckonable service. The incapacity grant is 1/12 of their final pensionable salary for the length of their reckonable service (years and days).
9. If the teacher is still employed, they should obtain the two forms required for their application from their employer. One form is for the teacher to complete with their employer, the other is for the medical evidence to support their application.
10. If the teacher is no longer employed as a teacher, they can either download the forms from the Forms and Leaflets section on the website <http://www.sppa.gov.uk/> or contact the SPPA directly, quoting their teacher's reference number or National Insurance number.
11. Forms should be returned to SPPA together by the employer if the teacher is in service, or by the teacher if no longer in service. Employers and their occupational health advisors must look at ways of helping individuals return to work, eg redeployment, part time working, transfer to a post with less responsibility or consider other workplace adjustments before concluding that IHR may be appropriate. The teacher and their employer's occupational health advisor in conjunction with the medical practitioner need to provide the medical evidence and complete the application forms.
12. If the teacher has left pensionable teaching within 12 months of submitting the application, the medical information sections of the application form must be completed by the ex employer. If the teacher is not currently employed in pensionable teaching employment, they will have to pay for any costs incurred in providing medical evidence.

USEFUL CONTACTS

Service	Website/Email address	Telephone No.
Internal Services		
Aviva+	Workplace app : Download on App store or Google Play.	
SBC Human Resources case management team	ashkhr@scotborders.gov.uk	01835 825015
Health and Safety Team:	healthandsafety@scotborders.gov.uk	
External Services		
Access to Work Scheme	www.gov.uk/access-to-work	
Citizens Advice Central Borders	http://www.cas.org.uk/ Email: enquiries@centralborderscab.casonline.org.uk	01896 753889
Direct Gov website	https://www.gov.uk/browse/disabilities	
Equality & Human Rights Commission	www.equalityhumanrights.com/	
NHS 24	http://www.nhs24.com/	Freephone 111

For full list of contacts please see Employee Wellbeing & Health Handbook at [Staff Wellbeing Handbook September 2023.pdf \(sharepoint.com\)](#)