

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
 - Corporate Health & Safety Policy
 - Disciplinary Procedure
 - Domestic Violence Policy
 - Equality Diversity & Human Rights Policy
 - Mentally Healthy Workplace and Stress Management 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 as employees realise absence is rarely questioned or challenged. At the same time it can create an environment of resentment, disinterest and discontent amongst other employees.

In most cases sickness absences are unavoidable and completely genuine; however there are sometimes a small number of people who abuse the system.

The following aims to address both of these groups 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, particularly 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 29.

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 and its relevant agencies 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 (P.A.M.).

- 4.4 Attendance Management Procedure requires that Return to Work meetings are held, and has four subsequent levels, namely:
- Stage 1 – Informal Guidance
 - Stage 2 – Written Warning/Final 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 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)
 - A period made up of 9 days or more in a 12 month period (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, ie there has been an absence for stress/anxiety and the employee has been absent for a cumulative 9 days in a rolling 12 month period.
- 4.8 All employees' absences will be recorded for the purposes of managing attendance.
- 4.9 Line managers should be aware of the Council's following policies, procedures and guidelines:
- Accident and Incident Reporting Policy
 - Corporate Health & Safety Policy
 - Disciplinary Procedure
 - Domestic Violence Policy
 - Equality Diversity & Human Rights Policy
 - Mentally Healthy Workplace and Stress Management Policy
 - Special Leave Guidelines
 - Substance Misuse Policy.
- 4.10 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 for further advice.
- 4.11 Pregnancy related absences should be disregarded for the purposes of Attendance Management. HR can provide specific advice if there are issues.

- 4.12 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 for further advice if they know or believe this may apply.
- 4.13 When a manager becomes aware that an employee is suffering from mental health issues, support should be made available through the Council's Occupational Health provider.
- 4.14 While the Attendance Management Procedure is intended to provide support and assistance to employees, it is emphasised that the Council will deal firmly with cases where employees have taken sick leave but are not genuinely sick. In these instances line managers should use the Council's Disciplinary Procedure outlined in the HR Policy and Guidelines.
- 4.15 Staff in HR will offer advice and assistance at any stage in dealing with sickness absence. Contact HR on Ext 5052/5053 or askhr@scotborders.gov.uk
- 4.16 Employees may be referred to Occupational Health (P.A.M.) for advice on both short term and long term absences.
- 14.17 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. The authority to dismiss will be delegated no further than to a Manager reporting directly to a Director level post.

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, firmly 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 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
- 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 informal/formal 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, providing support and advice where necessary
- On becoming aware that an employee is suffering from mental health issues, make available support from the Council's Occupational Health provider (Appendix 27)
- Seek advice from HR 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 and contact the Health & Safety Team Leader where necessary.

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 dismissal. 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 assessments
- Maintain contact during periods of absence, including long term absence
- Return to work promptly, as soon as appropriate
- Communicate with line managers on return to work
- Be familiar with and comply with the conditions which apply to the continued payment of sick pay
- Complete attendance records on BusinessWorld
- Seek clarification from line managers (or HR) 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 aid officer.

5.4 Human Resources

5.4.1 The role of HR is to offer line managers advice on procedures and provide assistance in individual cases. HR 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 (P.A.M.) 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 P.A.M. are made online via the Intranet (appendix 27 provides details), normally by the employee's line manager.

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 P.A.M 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, or where absence occurs
- 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. However, this may change in the specific circumstances of the case. 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 confidential Employee Assistance Programme run by P.A.M. This service is available 24 hours a day every day of the year. Employees can obtain advice and support on any work or personal issue.

5.5.6 The support provided includes telephone counselling and where appropriate face to face counselling.

5.5.7 P.A.M. can be contacted by employees via (freephone 0800 882 4102) or by visiting the P.A.M. Assist Website www.pamassist.co.uk. The log in details are:

Username: Borders
Password: Council

5.5.8 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 P.A.M. and HR. 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 Guidelines on Special Leave.

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, transgender status (including gender identity), sexual orientation, marital status, age, disability or disadvantaged by conditions nor have requirements imposed which cannot be shown to be justifiable.

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 13), 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.

7.3 Gender Reassignment

7.3.1. Gender reassignment is protected by the Equality Act and employees undertaking gender reassignment may require to be absent from work. .

7.4 Religious Observations and Pilgrimages

7.4.1. Whilst the Council is supportive of employees who wish to practice religious observations or undertake pilgrimages, time off to do so does not fall under the jurisdiction of this Policy. Applications to take time off work for the purpose of religious observance are subject to reasonable notice being given of leave dates requested. Employees will normally be able to use their annual leave entitlement for this purpose.

7.4.2 Unauthorised absence that has resulted due to attending religious observations/Pilgrimages will be treated seriously and dealt with under SBC's Disciplinary Procedure. This may result in disciplinary action being taken up to and including dismissal.

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 the 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 contact their Line Manager directly on the 4th and 7th day of their absence. In exceptional circumstances the frequency and method of contact can be varied depending on the reason for the sickness absence, however 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 taken ill or injured while at work, the matter must be reported to the line manager and the employee taken to the service area's first aid officer to assess the situation. Line managers must make arrangements for anyone who is unwell to leave

work safely and/or receive medical treatment and contact the Health and Safety Section where necessary.

- 8.1.3 Ensure that if an accident, incident or near miss occurs, a report is made within 3 days using 'Lexi', the Council's Health and Safety system. More information can be found on the intranet under 'Your Job' – Health and Safety'.

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" 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 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.

Notes for Line Managers only

- 8a 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.
- 8b Ensure that if an accident, incident or near miss occurs, a report is made within 3 days using Lexi.
- 8c The employee, if they believe they are displaying symptoms of stress, and they believe the symptoms are work related must complete a **Stress Management Report Form (AM3)** (Appendix 25) and forward to HR. HR will determine 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.

- 8d 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.
- 8e 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)** (Appendix 25) and forward to HR. HR will determine 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 Metally 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 (either in person or if that is not practical by telephone). 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 7 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 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. These are also sent to HR to facilitate the management of absence.
- 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, provided in Appendix 6, 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. Sickness During Annual Leave

10.1 Non-Teaching Staff

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.

10.2 Teaching Staff

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 his/her 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.

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.
- 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. This should not be treated as a substitute for reporting sickness absence.

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 Non-Teaching

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 Teachers (excluding Supply Teachers)

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 a teacher 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 28.

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 HR.

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/Final 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. ([See section 8](#)).

15.2 It is important that Return to Work meetings are conducted fairly and consistently - following the basic framework outlined in [appendix 7](#) 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 representation or appeal. However if support at any meeting 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 8](#) should create consistency of approach across the Council.

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.
- 17.2 The manager will prepare and submit an Attendance Management Report ([Appendix 10](#)) 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 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.

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 or to send a representative to attend on their behalf. 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, including the written confirmation of the outcome, is appended (Appendices 12 - 18). 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 who will provide professional advice and take brief notes.

19. Those Authorised to Chair Formal Attendance Management Hearings

19.1 Non-teaching staff

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

19.2 Teaching staff

Stage	Hearing	Appeal
2/3. Where Written Warning/ Final Written Warning is likely	Principal Teacher/Depute Head Teacher, Manager to whom teacher reports	Head Teacher, Primary or Secondary Schools Manager, Chief Officer Education or Director, Children and Young People
4. Where Dismissal is likely	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 	18 months
Dismissal (with notice)	Where: <ul style="list-style-type: none"> • 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.
- **Caution** - where it is felt that the other options are not appropriate given the circumstances

Note:

- All attendance is monitored on a rolling 52 week period.

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

21.1 The procedure to follow for the meeting is outlined at [Appendix 11](#).

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 ([Appendix 14](#)). 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 At the end of the monitoring period (or during the monitoring period if attendance levels have deteriorated) the manager must arrange a further formal Attendance Management Hearing. 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/has deteriorated 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. Deterioration 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. ([Appendix 14](#)).

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

21.1 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 the 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 the case is referred for an independent medical opinion if this has not already happened. 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 reasonable 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 interview 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 11](#). 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, 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 on grounds of capability 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 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 Head of the employing department, 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 the Senior Manager to whom the Attendance Management Hearing Manager reports, or a senior Manager who has not been involved previously. The procedure for the Appeal Hearing to be conducted by Management is outlined in [Appendix 19](#).

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 Service Director HR and Communications with the grounds of appeal, within 10 working days of receipt of confirmation of the action, either personally or through their union representative. The Service Director HR and Communications 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 22](#). The format in which papers require to be submitted to the Staffing Appeals Committee is detailed in [Appendix 23](#).

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.

25.6 Involvement of HR

Where a member of HR has advised at a formal Hearing, a different member of HR will advise at the appeal, wherever possible.

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 ([Appendix 6](#)) to record details of the contact.
- 26.3 Long-term absence is dealt with differently from short-term absence. Although these types of absence are generally few in number there is the possibility that a manager could be dealing with an employee who has developed a disability, is suffering permanent ill-health, or in extreme cases a terminal illness.
- 26.4 The line manager will need to demonstrate sensitivity at all times. At some stage during the absence, normally no later than four weeks into the absence, the line manager will have to decide, in consultation with HR, if it is appropriate to 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 (P.A.M.) for advice on both short term and long term absences ([Appendix 27](#)). 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. The report can be sent by e-mail if the employee has a Council e-mail address and is currently at work with access to e-mail. Alternatively the report can be posted or hand delivered to the employee if appropriate.
- 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.

Adjustments to role (temp or perm)	On OH advice, seek mutually agreeable and workable solution. Use a trial period.
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.
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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 ([see Appendix 29](#)).

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 ([Appendix 10](#)) 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 ([Appendix 12](#)) 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 meeting:
- 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 (Appendices 14–17). 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.

30. 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 where a disabled employee is placed at a substantial disadvantage the Council is required to avoid treating an employee unfavourably because of something arising in consequence of disability (without objective justification) and to make reasonable adjustments to the work place and work practices. In some situations, limited external assistance with implementing adjustments may be available from disability charities or the Access to Work scheme. These options should be fully explored with assistance from HR.

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.
- 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.
- Allocating some of the employee's duties to another person
 - Transferring 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:

- Conducting a proper assessment of what reasonable adjustments may be required
- 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
- Modifying performance-related pay arrangements.

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 or BSL interpreter.
Hearing impairment	Making phone calls (in the office)	Provide a videophone or text phone
Hearing impairment	Contacting the office (for example, to find out the time and location of their next meeting)	Provide a mobile text phone that can be used with the Text Relay Service - e.g. a Nokia communicator
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 Dictaphone 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).

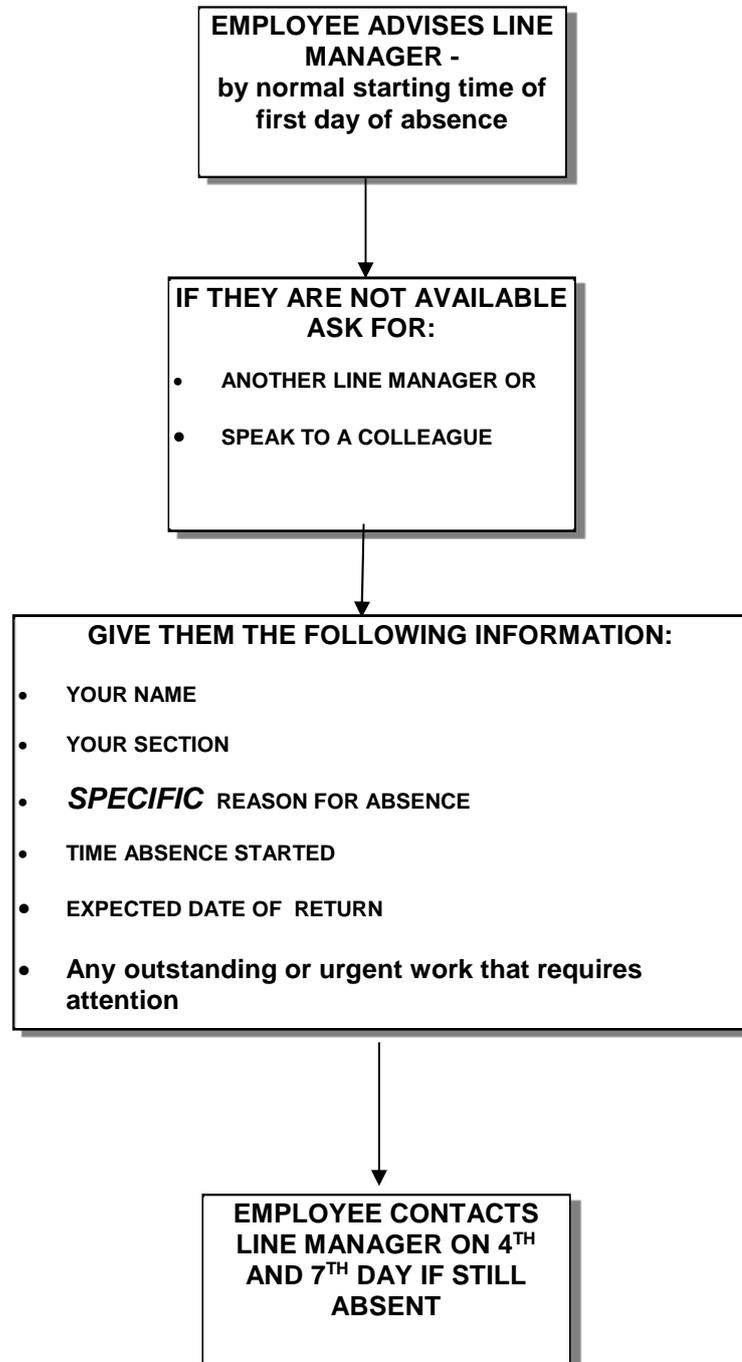
5. Other support

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

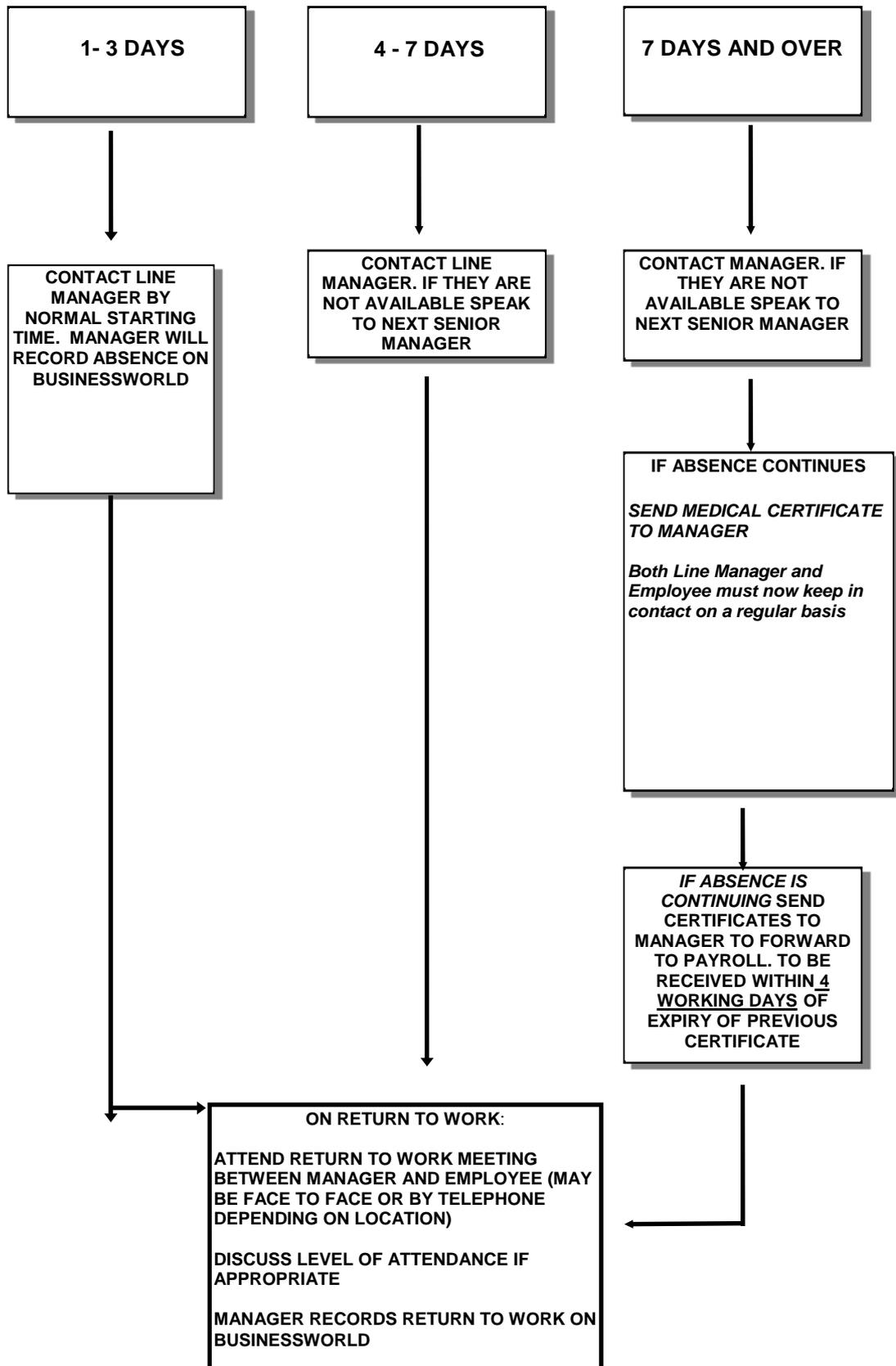
- The Council's Wellbeing and Safety Team: wellbeing&safety@scotborders.gov.uk
- Direct Gov website – [https://Disabled people - GOV.UK](https://Disabled%20people-GOV.UK)
- The Citizens Advice Bureau - www.citizensadvice.org.uk
- Access to Work Scheme - www.gov.uk/access-to-work
- See also 'Useful Contacts' [Appendix 30 page 84](#)

Appendix No. 2

NOTIFYING AN ABSENCE

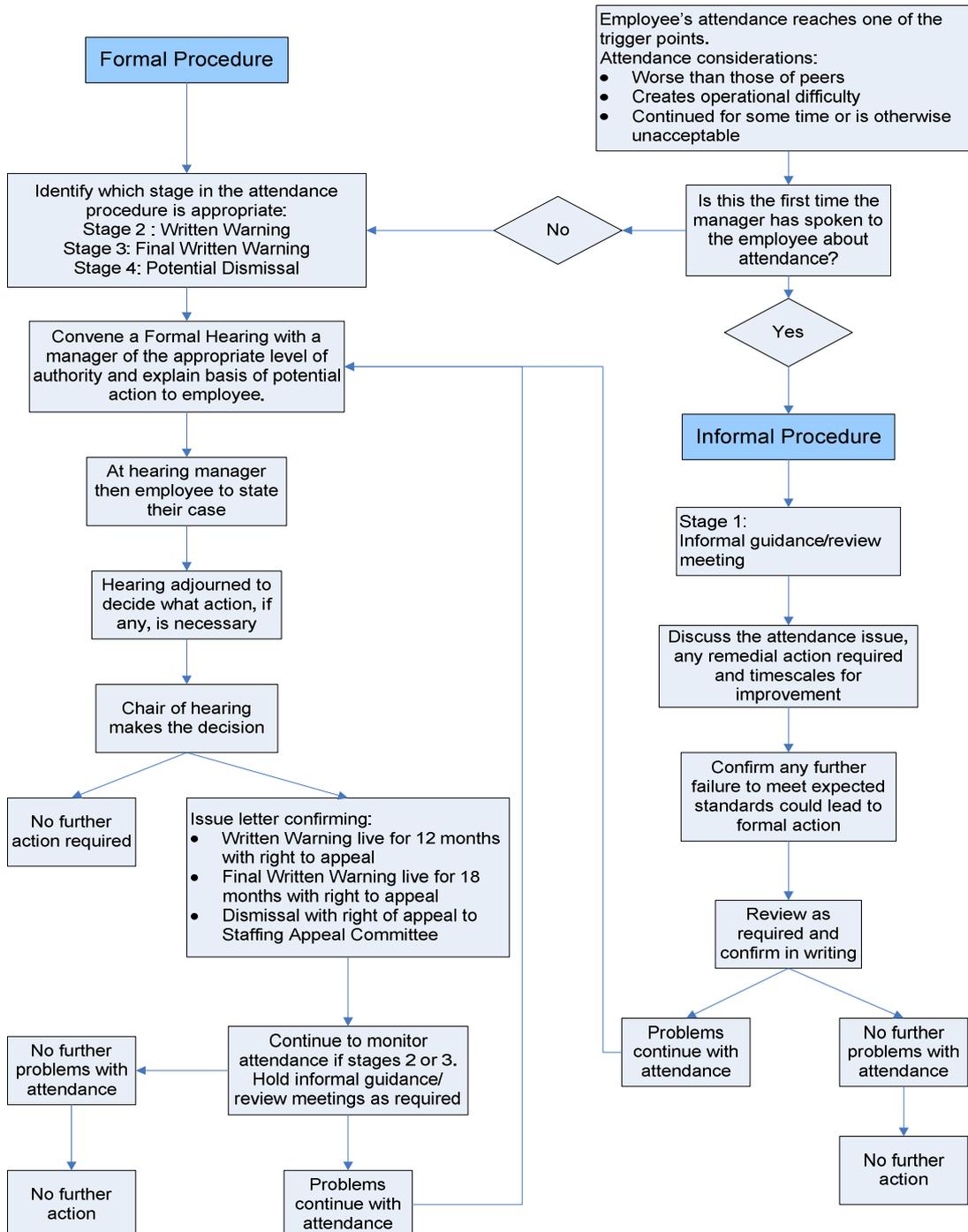


CERTIFYING AN ABSENCE /RETURNING TO WORK



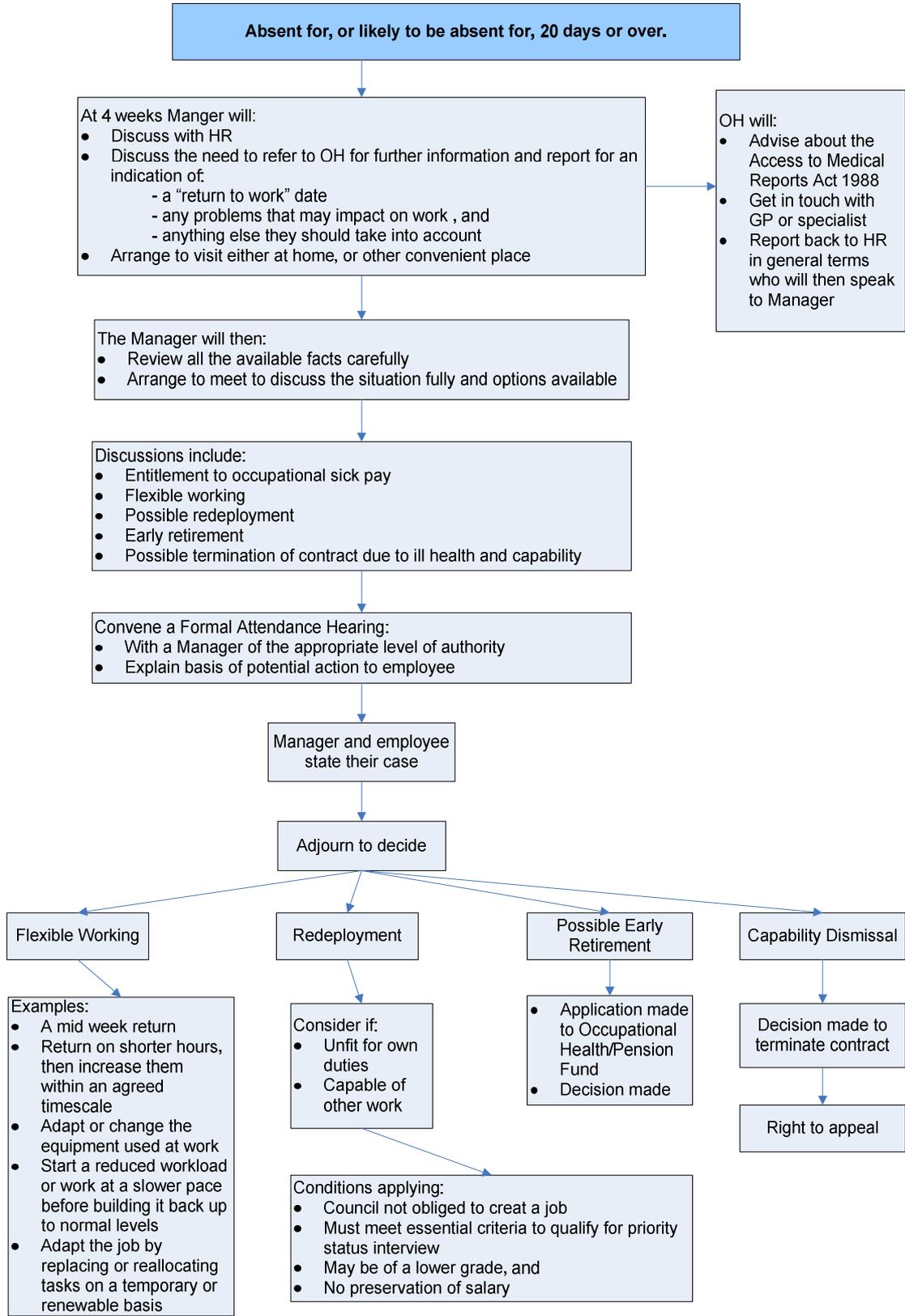
Appendix No. 4

**SHORT TERM/ COMBINED SHORT & LONG TERM ABSENCE
FLOWCHART**



Appendix No. 5

LONG TERM ABSENCE FLOW CHART





Appendix No. 6

EMPLOYEE ATTENDANCE RECORD AND CONTACT SHEET

CONFIDENTIAL - TO BE RETAINED BY SUPERVISOR / LINE MANAGER

NAME	DEPARTMENT	EMPLOYEE No
------	------------	-------------

FORMAL ACTION

YEAR	ABSENCE START			ABSENCE FINISH			REASON	TOTAL	YEARLY TOTAL	RETURN TO WORK DISCUSSION	FORMS TO FINANCE		INITIAL/FINAL	DATE ISSUED	DATE OF EXPIRY
	TIME DATE	DAY		TIME DATE	DAY						FORM 1	FORM 2			
			/ /			/ /				/ /	/ /	/ /		/ /	/ /

CONTACT DETAILS

DATE	NOTES	DATE	NOTES

Appendix No. 7

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:

- show your concern for employees when they notify you of their sickness
- record the absence on BusinessWorld on the first day of an absence
- update any section attendance records, noting all the relevant information
- seek support and guidance from your Manager, HR and Occupational Health if required
- seek guidance from HR if the employee is pregnant, has a disability or a condition which is terminal or life threatening
- refer the employee immediately to Occupational Health if they are suffering from mental health issues
- don't assume that if the employee has previously presented a problem that they are not genuinely ill this time
- 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)
- choose a private place and ensure there are no interruptions
- show genuine interest/concern, and
- advise them that their presence has been missed
- 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

After the Meeting:

- advise your line manager about any concerns you have over a particular employee's attendance record

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 let the employee know that their contribution has been missed, and provide them with an update 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 – Consequences/observations/immediate actions

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, particularly if the ultimate decision is dismissal and the Council is required to appear at an Employment Tribunal. Failure to comply with council procedure could mean the Tribunal ruling against the Council even where a dismissal was otherwise fair.

Appendix No. 8

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.

Appendix No. 9

SAMPLE LETTER 1

PRIVATE & CONFIDENTIAL

Please ask
for:
Our Ref:
Telephone:
E-Mail:
Date:

Dear _____

Stage 1: Supporting Attendance (Informal Monitoring)

Thank you for meeting with me on _____ to discuss your attendance at work. As you know, the Council wishes to ensure that all employees are effectively supported to ensure that attendance at work is maximised. This is an important means of ensuring that council services are delivered in an efficient way and that disruption is minimised.

At the meeting we discussed: (Brief note of topics covered including any occupational health referrals, GP advice etc and responses received)

We agreed that: (Brief note of actions and state the start and end date of the 6 month review period). You will be placed on a period of 6 months informal monitoring from (date) to (date).

As you are aware, I must advise you that it may be necessary to consider more formal action in accordance with the Attendance Management Procedure if your attendance levels continue to cause concern or if further absence triggers are met.

I will arrange for us to meet again near the end of the review period (insert end date of review period). In the meantime, please let me know if you have any concerns or questions.

Yours sincerely

Manager's Name
Job Title

cc HR Adviser (Human Resources)

Appendix No. 10

SAMPLE REPORT FOR ATTENDANCE MANAGEMENT

PRIVATE AND CONFIDENTIAL

**ATTENDANCE MANAGEMENT REPORT
(EMPLOYEE'S NAME)
(JOB TITLE)
(DEPARTMENT)**

CONTENTS

REPORT

1. Introduction
2. Employee Details
3. Application of Attendance Procedure and Monitoring
4. Consideration of Obligations under the Equality Act
5. Conclusion

List of enclosures

- Appendix ? Attendance Record
- Appendix ? Job Description
- Appendix ? Details of Occupational Health referral
- Appendix ? Report from Occupational Health
- Appendix ? Note of attendance management meeting
- Appendix ? Final advice from Occupational Health
- Appendix ? Scottish Borders Council's Attendance Management Procedure

1. INTRODUCTION

This section should confirm:

- Name of employee report refers to
- Post Title
- Employing Department
- Start date of current absence and reason for absence
- Make reference to attendance record which should be attached as an appendix

2. EMPLOYEE DETAILS

Post:

Grade:

Contracted hours:

Recognised continuous Service:

Commenced employment with Council:

Commenced current post:

Date of Birth:

Member of SBC Superannuation Scheme:

3. APPLICATION OF ATTENDANCE PROCEDURE & MONITORING

This section should detail:

- who has monitored the attendance
- the nature and timescales of contact with employee during absence i.e face to face/telephone. A copy of the Contact Sheet can be included.
- when the initial Occupational Health referral was made and any subsequent referrals
- summary of each Occupational Health Report, any recommendations made and any actions taken
- all meetings with employee following receipt of Occupational Health Reports
- all meetings or discussions regarding adjustments to current post or redeployment
- most current report from Occupational Health confirming employee's current state of fitness for work and if not fit likely duration of absence if known
- discussion with employee regarding implications for their continued employment with SBC if absence continues i.e. ill health retiral if recommendation from Occupational Health and employee in the Pension Scheme or capability dismissal if recovery expected but no date of fitness for work in the foreseeable future
- discussion with employee confirming that an Attendance Management Hearing will be held

4. CONSIDERATION OF OBLIGATIONS UNDER THE EQUALITY ACT (DISABILITY)

4.1 Due regard has been given with regard to the above Act in order to ensure that no discrimination against (Name) has taken place on the grounds of disability.

4.2 Throughout these proceedings action has been taken to ensure reasonable adjustments have been considered in order to assist (Name) return to work i.e. alternative employment, support to the employee, as well as temporary adjustments to the working environment.

5. CONCLUSION

- Confirm length of absence and prediction of likely return date if any
- If redeployment has been considered, give summary of any posts offered and if declined the reasons for this
- State current advice from Occupational Health ie recommendation for retiral on grounds of permanent ill health
- Confirm if employee is a member of the Pension Scheme and if being retired on the grounds of permanent ill health confirm which Tier is applicable

_____ **(Name) – (Title)**

_____ **(Name) HR Representative**

_____ **Date**

Appendix No. 11

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, 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:

- Ensure that an accurate record of the Hearing is taken.
- 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

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, 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 for retention on the employee's personal file.

SAMPLE LETTER 2

PRIVATE & CONFIDENTIAL

Please ask
for:
Our Ref:
Telephone:
E-Mail:
Date:

Dear

Formal Attendance Management Hearing (*Stages 2 or 3*)

Further to your discussion with (name) on (date). I write to advise you that a Formal Attendance Management Hearing is to be held as follows:

Date
Time
Place

I will Chair the Hearing and be advised by (*name*) from (*HR or department representative*). You have the right to be accompanied at the Hearing by a Trade Union Representative or work colleague and you should contact them as soon as possible to ensure their availability. Alternatively you may choose not to be accompanied.

The purpose of the Hearing is to consider your attendance record/health issues in accordance with the Council's Attendance Management Procedure.

A copy of the Procedure to be followed during the Hearing and a report from (name) are enclosed for your information. Please note this documentation will be referred to during the Hearing.

I am obliged to inform you that the Hearing may result in formal action being taken in terms of the Attendance Management Procedure. This may include a verbal warning, written warning or final written warning.

I would be grateful if you would confirm your attendance as soon as possible. If you are unable to attend on this date please contact me immediately so that an alternative date can be arranged if appropriate.

I would also like to draw your attention to our confidential Employee Assistance Programme which is a service available to all employees 24 hours a day, 365 days a year. If you feel that you would benefit from speaking with them, they can be contacted on free phone number (T) 0800 882 4102 or by visiting the P.A.M. Assist Website www.pamassist.co.uk. The log in details are:

Username: Borders
Password: Council

Yours sincerely

Manager's Name
Job Title

cc: HR Adviser (Human Resources)

SAMPLE LETTER 3

PRIVATE & CONFIDENTIAL

Please ask
for:
Our Ref:
Telephone:
E-Mail:
Date:

Dear

Formal Attendance Management Hearing - Stage 4

Further to your discussion with *(name)* on *(date)*, I write to advise you that a Stage 4 Formal Attendance Management Hearing is to be held as follows:

Date
Time
Place

I will Chair the Hearing and be advised by *(name)* from *(HR or department representative)*. You have the right to be accompanied at the Hearing by a Trade Union Representative or work colleague and you should contact them as soon as possible to ensure their availability. Alternatively you may choose not to be accompanied.

The purpose of the Hearing is to consider your continued employment in light of your absence. It is likely that a decision will be made regarding your continued employment and whether any alternatives could be reasonably considered. This will be carried out in accordance with the Council's Attendance Management Procedure.

A copy of the Procedure to be followed during the Hearing and a report from *(name)* are enclosed for your information. Please note this documentation will be referred to during the Hearing.

I would be grateful if you would confirm your attendance as soon as possible. If you are unable to attend on this date please contact me immediately so that an alternative date can be arranged if appropriate.

I would also like to draw your attention to our confidential Employee Assistance Programme which is a service available to all employees 24 hours a day, 365 days a year. If you feel that you would benefit from speaking with them, they can be contacted on free phone number (T) 0800 882 4102 or by visiting the P.A.M. Assist Website www.pamassist.co.uk. The log in details are:

Username: Borders
Password: Council

Yours sincerely

Manager's Name
Job Title

cc: HR Adviser (Human Resources)

SAMPLE LETTER 4**PRIVATE & CONFIDENTIAL**

Dear

Outcome Confirmation (*Written or Final Written Warning*)
Stage (2 and 3) Formal Attendance Management Hearing:

I refer to the Formal Attendance Management Hearing which took place on *(date)*. I chaired the Hearing and was advised by *(name)* from Human Resources. I note you were accompanied by *(name)* or I note you chose not to be accompanied.

At the hearing I examined all of the evidence and reports submitted by *(name)* (*If applicable: Note the recommendation received from Occupational Health*) and listened to your own evidence.

Consequently, having taken into account all the circumstances I confirm my decision to issue you with a *(level of warning)*. (*Set out the length and conditions attached to the Warning here*). I must advise you that if your attendance does not improve, further action may be taken against you which may include dismissal.

You have the right to appeal against this decision. If you wish to exercise this right of appeal you, or someone acting on your behalf, should write to *(name and job title)* at Scottish Borders Council Headquarters, Newtown St Boswells, TD6 0SA detailing in full the reason for your appeal, within 10 working days of receipt of this letter.

Yours sincerely

Managers Name
Title

cc: HR Adviser (Human Resources)

SAMPLE LETTER 5

PRIVATE & CONFIDENTIAL

Dear

**Stage 4 - Formal Attendance Management Hearing:
Outcome Confirmation - Dismissal**

I refer to the Formal Attendance Management Hearing which took place on *(DATE)*. I Chaired the Hearing and was advised by *(NAME)* from HR. I note you were accompanied by *(NAME)* or I note you chose not to be accompanied.

At the hearing I examined all of the evidence and reports submitted by *(NAME)* *(If applicable: Note the recommendation received from Occupational Health)* and listened to your own evidence.

Consequently, having taken into account all the circumstances I confirm my decision to terminate your contract of employment. Therefore, I hereby give you formal notice that your final date of employment is *(DATE)*. Payment in lieu of notice *(NUMBER OF WEEKS)*, as well as any outstanding monies: i.e. annual leave, etc. will be paid with your final salary.

You have the right to appeal against this decision. If you wish to exercise this right of appeal you, or someone acting on your behalf, should write to the Service Director HR and Communications , Human Resources Services, Scottish Borders Council Headquarters, Newtown St Boswells, TD6 0SA outlining the basis of your appeal within 10 working days of receipt of this letter. Any appeal would be heard by the Staffing Appeals Committee.

Yours sincerely

Managers Name
Job Title

cc: HR Adviser (Human Resources)
Payroll

SAMPLE LETTER 6**PRIVATE & CONFIDENTIAL**

Dear

**Formal Attendance Management Hearing:
Outcome Confirmation - Capability Dismissal**

I refer to the Formal Attendance Management Hearing which took place on *(DATE)*. I chaired the Hearing and was advised by *(NAME)* from HR. I note you were accompanied by *(NAME)* or I note you chose not to be accompanied.

At the hearing I examined all of the evidence and reports submitted by *(NAME)* *(If applicable: Note the recommendation received from Occupational Health)* and listened to your own evidence.

Consequently, and taking into account all the circumstances I confirm my decision to terminate your contract of employment on the grounds of capability.

Therefore, I hereby give you formal notice that your final date of employment is *(date)*. Payment in lieu of notice *(number of weeks)*, as well as any outstanding monies: i.e. annual leave, etc. will be paid with your final salary.

You have the right to appeal against this decision to terminate your contract. If you wish to exercise this right of appeal you, or someone acting on your behalf, should write to the Service Director HR and Communications, Human Resources Scottish Borders Council Headquarters, Newtown St Boswells, TD6 0SA detailing in full the reason for your appeal within 10 working days of receipt of this letter. Any appeal would be heard by the Staffing Appeals Committee.

I would like to take this opportunity on behalf of Scottish Borders Council to thank you for your years of service to Scottish Borders Council and wish you all the best in the future.

Yours sincerely

Managers Name
Job Title

cc: HR Adviser (Human Resources)
Payroll/Pensions

SAMPLE LETTER 7

PRIVATE & CONFIDENTIAL

Dear

**Formal Attendance Management Hearing:
Outcome Confirmation - Ill Health Retiral**

I refer to the Formal Attendance Management Hearing which took place on *(date)*. I Chaired the Hearing and was advised by *(name)* from HR. I note you were accompanied by *(name)* or I note you chose not to be accompanied.

At the hearing I examined the report submitted by *(name)* and the recommendation from Occupational Health that you be considered for retiral on the grounds of ill health.

Consequently, and taking into account all the circumstances I confirm my decision to terminate your contract of employment on the grounds of capability due to permanent ill health.

Therefore, I hereby give you formal notice that your final date of employment is *(date)*. Payment in lieu of notice *(number of weeks)*, as well as any outstanding monies: i.e. annual leave, etc. will be paid with your final salary.

PENSION PARA IF APPLICABLE

Your pension will be put into payment with effect from *(date)*. Your pension lump sum will be paid by cheque and someone from the Pensions Team will contact you direct regarding payments, but should you have any queries in the meantime please contact the Pensions Team on 01835 826577 or 01835 825205.

You have the right to appeal against this decision to terminate your contract. If you wish to exercise this right of appeal you, or someone acting on your behalf, should write to the Service Director HR and Communications , Human Resources Scottish Borders Council Headquarters, Newtown St Boswells, TD6 0SA detailing in full the reason for your appeal within 10 working days of receipt of this letter. Any appeal would be heard by the Staffing Appeals Committee.

I would like to take this opportunity on behalf of Scottish Borders Council to thank you for your years of service to Scottish Borders Council and wish you all the best in the future.

Yours sincerely

Managers Name
Job Title

cc: HR Adviser (Human Resources)
Payroll/Pensions

SAMPLE LETTER 8

Confirmation of Completion of Review Period (where an initial or final warning has been issued)

Personal

Dear

COMPLETION OF REVIEW PERIOD

When we met on .../.../... I advised you that your attendance would be subject to a review period of 6 months ending on .../.../.... . We met again on / / and I can now advise you that you have completed this review period and that your attendance now meets the standards expected of Scottish Borders Council employees.

The warning you received will remain live on your file for a period of 12 months from the date of this meeting to / / following which it will be disregarded.

You should be aware that any deterioration in your sickness record in the future will result in the resumption of the Scottish Borders Council Absence Review Procedure which could lead to further action potentially including dismissal.

I am pleased that you have achieved a higher standard of attendance and I hope you continue to enjoy good health in the future.

Yours sincerely

Manager

Copy : HR Adviser (HR)

CONDUCT OF APPEAL BY MANAGEMENT

Introduction

1. The Chairperson should introduce those present, and 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 his or her 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.

SAMPLE LETTER 9**PRIVATE & CONFIDENTIAL**

Please ask for:

Our Ref:

Date:

Dear

Formal Attendance Management Appeal Hearing Stage (2 or 3)

Further to your letter of appeal against the (level of warning), submitted on (date), I write to advise that an Appeals Hearing has been arranged as follows:

Date
Time
Place

I will Chair the Hearing and be advised by (name) from (HR or department representative). You have the right to be accompanied at the Hearing by a Trade Union Representative or work colleague and you should contact them as soon as possible to ensure their availability. Alternatively you may choose not to be accompanied.

At the Appeal Hearing the evidence presented at your Stage (2 or 3) Hearing will be reviewed and all relevant reports and circumstances will be taken into account.

I would refer you to the Council's Attendance Management Procedure which you received before your initial Hearing for further guidance on the Appeals procedure.

I would be grateful if you would confirm your attendance as soon as possible. If you are unable to attend on this date please contact me immediately so that an alternative date can be arranged if appropriate.

Yours sincerely

Manager's Name
Job Title

cc: HR Adviser (Human Resources)

SAMPLE LETTER 10

PRIVATE & CONFIDENTIAL

Dear

Formal Attendance Management Appeal Hearing Stage (2 or 3)
Outcome Confirmation – (level of warning)

I refer to the Appeal Hearing which took place on *(date)*. I Chaired the Hearing and was advised by *(name)* from Human Resources. I note you were accompanied *by (name)* **OR** I note you chose not to be accompanied.

You appealed against the *(level of warning)* issued by *(name)* on *(date)*.

Having listened to all the evidence, read all the reports presented and given due consideration to them all, I confirm that you have been unsuccessful in your Appeal. The *(level of warning)* will therefore remain with the conditions originally imposed and you have no further right of appeal.

(or)

I confirm that your Appeal has been successful and that the *(level of warning)* will be removed from your employment record.

I must advise you however that if your attendance does not improve then further action may be taken against you in accordance with the Attendance Management Procedure which may include dismissal.

Yours sincerely

Manager's Name
Job Title

cc: HR Adviser (Human Resources)

CONDUCTING AN APPEAL BY COMMITTEE**Introduction**

1. The Chairperson should introduce those present, and 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.

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 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 his or her 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 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 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.

**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 Service or Executive 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 **Appendix 22** '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 Appendix 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.

1. APPEAL PAPERS: MANAGEMENT TEMPLATE

NOTE: This template is intended to indicate the layout of the submission. It does not, however, restrict the actual content of the manager's submission, which is likely to vary according to the details of the case.

CONFIDENTIAL

COUNCIL STAFFING APPEALS COMMITTEE

**APPEAL AGAINST ATTENDANCE MANAGEMENT ACTION:
MANAGEMENT CASE**

Name:

Job title:

Dept:

Name of employee:

Job title:

Dept:

CONTENTS

SECTION	DESCRIPTION	PAGE
1	Employee details	
2	Summary	
3	Case details	
4	Rationale for decision	
5	Conclusion	
APPENDICES (<i>Examples of papers</i>)		
1.	Dates of counselling and review meetings and summary of key content.	

2.	Letter dated XX confirming outcome of	
3.	Letter dated xx inviting employee to attend hearing (which resulted in dismissal)Stage 2/ Stage 3 Hearing	
4.	Dismissal letter dated xx from Scottish Borders Council	
5.	Witness statement dated x.	
6.	Attendance Management Report	

1. EMPLOYEE DETAILS

Name:

Job title: Grade:

SBC employment start date: Date of dismissal:

Total SBC service: Years in post:

2. SUMMARY

Example

Mr X was dismissed by (*name of manager*) on (*date*). The reason for dismissal was (*reason*).

3. CASE DETAILS

Include here, as appropriate:

- A concise history of the case, indicating when issues first arose and how they developed, how they were managed, standards set, monitoring arrangements etc
- Any previous action in respect of the employee's attendance
- The circumstances which led to the Attendance Management hearing
- Any mitigating circumstances that were considered
- Any adjustments which were considered
- Reference to the Attendance Management report
- Reference to the response by the employee and/or workplace colleague/ accredited trade union representative at the hearing
- Any new evidence.

4. RATIONALE FOR DECISION

Include a summary of why the decision was taken to dismiss the employee. Does the employee have a disability? If so were any adjustments considered?

Explain why you do not agree with the employee's specific reasons for appeal.

5. CONCLUSION

Pull together the key overriding points of the case and conclude that dismissal was the most appropriate course of action. This section may include the impact of absence on other staff / the public, the impact on the Council, the risks of not dismissing the employee, action in other similar cases across the Council, likelihood of improvement, or any relevant new evidence.

Signature:

Date:

2. APPEAL PAPERS: EMPLOYEE TEMPLATE

NOTE: This template is intended to indicate the layout of the submission. It does not, however, restrict the actual content of the employee's submission, which is likely to vary according to the details of the case. However, for more in depth submissions, especially those with substantial documentary evidence, it would be helpful to the Council Staffing Appeals Committee for this template to be used.

CONFIDENTIAL

COUNCIL STAFFING APPEALS COMMITTEE

**APPEAL AGAINST ATTENDANCE MANAGEMENT ACTION:
EMPLOYEE CASE**

Name of employee:

Job title:

Dept:

Name of dismissing manager:

Job title:

Dept:

CONTENTS

SECTION	DESCRIPTION	PAGE
1	Personal details	
2	Summary	
3	Case details	
4	Reason for your appeal	
5	Conclusion	
APPENDICES (<i>Examples of papers</i>)		
1.	Dates of counselling and review meetings and summary of key content.	
2.	Relevant correspondence, emails, records of conversations to support the appeal.	

3.	Supporting Documents, for example showing good attendance, or of meeting standards / targets.	
4.	Dismissal letter dated xx from Scottish Borders Council	
5.	Witness statement dated x.	

1. PERSONAL DETAILS

Name:

Job title: Grade:

SBC employment start date: Date of dismissal:

Total SBC service: Years in post:

Name of line manager: Manager's job title:

2. SUMMARY

Example

I was dismissed by *(name of manager)* on *(date)*. The reason for dismissal was *(reason)*.

3. CASE DETAILS

Include here, as appropriate:

- A concise history of your case, indicating when issues first arose, how your manager handled them, how you responded, standards set, monitoring arrangements etc
- Any previous attendance management action prior to the current action
- The circumstances which led to the recent hearing
- Any mitigating circumstances that should have been considered
- Any adjustments you say it would be reasonable to make and the effect of these adjustments
- Reference to any key issues in the investigation report / fact finding exercise
- Reference to the issues you raised at the hearing and how the management responded
- Any new evidence.

5. REASON FOR YOUR APPEAL

Include a summary of why you believe the decision to dismiss you was wrong or unjust. Why you do not agree with the management's decision to dismiss you.

5. CONCLUSION

Pull together the key overriding points of the case. This section might include mitigating circumstances (eg record of good conduct, your long service record, temporary personal problems etc), the likelihood of you reaching the required standards of attendance, the reasons why periods of absence would not recur, or relevant new evidence.

Signature:

Date:

STRESS MANAGEMENT REPORT

Stress Management report form – AM3			
What is stress?			
Stress is the adverse reaction people have to excessive pressures or other types of demand placed on them. There is a clear distinction between pressure, which can create a 'buzz' and be a motivating factor, and stress which can occur when this pressure becomes excessive and prolonged. If left unaddressed stress may lead to ill health. The main symptoms of stress are:			
<ul style="list-style-type: none"> • Lack of concentration at home and work • Impaired sleep • Feeling tense, keyed up, on edge, worrying about things • Feeling depressed, bouts of crying 		<ul style="list-style-type: none"> • Palpitations, headache, backache, breathing difficulties • Panic attacks • Poor appetite • Decreased energy, fatigue 	
There are a number of things you can do yourself to alleviate symptoms of stress. If your well-being is adversely affected you may wish to visit your GP. For additional support please see attached list of support agencies.			
When should I complete this form?			
If you believe that you are displaying symptoms of stress, <i>whether or not you have been absent from work</i> , and you believe the symptoms are:			
a) Work-related, you must complete this form to enable the situation to be reviewed and see if reasonable steps can be taken to resolve the problems.			
b) Not work-related i.e. personal reasons and / or life events, you may wish to complete this form to enable your situation to be reviewed and see if reasonable steps can be taken to relieve the pressure for example by temporarily changing shifts to enable you to provide care / support at home.			
<i>Please note that the following information is confidential and any information provided will be used to identify any sources of pressure and will allow priority issues to be identified and action taken accordingly. On completion please forward to HR (in a sealed envelope).</i>			
Name.		Dept.	
Employee Number		Contact number	
Email Address		Line manager name.	
Would you be prepared to discuss your concerns with your Line Manager?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
If NO to the previous question, Would you discuss your concerns with an HR Adviser?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Do you believe your symptoms to be work-related?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Please note that if you wish you can arrange this confidential service by telephoning the Employee Helpline on 0800 882 4102. Your call will always be answered by an advisor who will offer help and support in a professional, friendly and non-judgemental manner.			

If YES to the previous question, do you consider it is due to:		
Unacceptable behaviour by your Line Manager	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Unacceptable behaviour by your colleagues	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Unacceptable behaviour of others	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Excessive workload demands	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Lack of control over the way you do your job	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Confusion over your role or conflicting roles.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Other reason. Please detail.		
Briefly describe the reason(s) you consider has brought on work related stress:		
.....		
.....		
.....		
.....		
.....		

**CERTIFICATE OF PERMANENT ILL HEALTH
LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) 2015**

Medical Certificate for a Current Employee or Councillor

This form must be completed and returned to Scottish Borders Council Pension Team when a pensionable employee / Councillor is being retired on the grounds of permanent ill health or infirmity of mind or body.

SECTION 1 – Member’s Details (to be completed by the Employer)

Member’s Name			
NI Number		Date of birth	
Employer			
Employer Contact		Telephone No	
Member’s Current Job (Job Description attached)			

SECTION 2 – Medical Practitioner’s (1) Certification

Part 1 – Please tick either box A or box B as appropriate (tick)

A	I certify that in my opinion this employee / Councillor IS permanently incapable (3) of discharging efficiently the duties of their current job by reason of ill health or infirmity of mind or body	
In cases of terminal illness please tick the box opposite where life expectancy is less than one year. The person is / is not (please delete as appropriate) aware of this fact.		
B	I certify that in my opinion this employee / Councillor IS NOT permanently incapable (3) of discharging efficiently the duties of their current job by reason of ill health or infirmity of mind or body	

Part 2 – If box A above is ticked please tick either box C or D. If box B is ticked go to Section 3

C	I certify that, in my opinion, this employee / Councillor IS UNLIKELY to be capable of undertaking gainful employment (4) before his / her normal pension age (5). (TIER 1)	
D	I certify that, in my opinion, this employee / Councillor IS LIKELY to be able to undertake gainful employment (4) before his / her normal pension age (5). (TIER 2)	

Part 3 – If box C is ticked please complete the following statement. If box D is ticked go to Section 3

I certify that as a result of their ill health or infirmity, the employee / Councillor is unable to continue in their current job / office and is unlikely to be capable of taking on any other paid work in any capacity, otherwise than to an insignificant extent (6) before State pension age (7).

YES / NO (delete as appropriate)

SECTION 3 – Medical Practitioner’s (1) Declaration

I certify that I have given due regard to the guidance issued by the Scottish Ministers, that I am independent and have not previously advised, or given an opinion on, or otherwise been involved in the case to which this certificate relates nor I am acting or have ever acted as the representative of this member, the Scheme employer or any other party with regard to the member in question.

Signature (Medical Officer)			
Please PRINT name			
Medical qualifications (2)		Date	

See overleaf for Explanatory note of terms (*) used

SECTION 4 - Employer's Determination

Determination Date

d	d	m	m	y	y	y	y
---	---	---	---	---	---	---	---

In accordance with the Medical Practitioner's Certification, it has been decided on the above date to:

(Please **tick one box only**)

Bring this employee's retirement benefits into payment before state pension age on the grounds of ill health under TIER 1	<input type="checkbox"/>
Bring this employee's retirement benefits into payment before state pension age on the grounds of ill health under TIER 2	<input type="checkbox"/>
Not bring this employee's retirement benefits into payment before state pension age on the grounds of ill health	<input type="checkbox"/>

Signature	
Please print name	
Designation	
Date	

Explanatory notes:

1. The independent registered medical practitioner signing the certificate must have been approved for this purpose by Scottish Borders Council (administering authority) and be qualified in occupational health medicine.
2. Qualified in occupational health medicine means holding a Diploma in Occupational Medicine (D Occ Med) or an equivalent qualification issued by a competent authority under the General and Specialist Medical Practice (Education, Training and Qualification) Order 2003 or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State.
3. 'Permanently incapable' means that the person will on the balance of probabilities be more likely than not incapable until normal pension age. Consideration must be given therefore not to the immediate or foreseeable future, but to the date when the person attains their normal pension age – see (5).
4. 'Gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with that of the person's current employment or office.
5. 'Normal pension age' means the employee's or Councillor's individual State pension age at the time the employment / office is to be terminated, but with a minimum of age 65. For a full breakdown of individual State pension ages please see: <https://www.gov.uk/state-pension-age>
6. 'Insignificant extent' means, for example, that the person could undertake voluntary work or unpaid work where out of pocket expenses are reimbursed or small amounts of travelling or subsistence payments are made. Any paid work should be insignificant, for example it should be infrequent or only for a few days during the year and the payment must be small in amount, not just as a proportion of the pay or salary they are earning in their current job.

GUIDANCE NOTES - MEDICAL CERTIFICATION FOR PENSION SCHEME MEMBERS LEAVING EMPLOYMENT ON THE GROUNDS OF ILL HEALTH

Background

1. Since 1 April 2009 changes to the Local Government Pension Scheme (Scotland) resulted in significant changes to pension benefits for members who leave employment for health reasons. There are two tiers of benefits with levels of enhancement depending on how badly a person's ill-health affects their capacity to work. Details of the provisions are mainly set out in the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2015
2. The key questions that will determine whether immediate benefits are payable when a Scheme member leaves an employment for health reasons, their level and duration are:
 - a) Has the member contributed to the Scheme for at least 2 years? (or transferred previous pension rights into the Scheme)
 - b) Should the employment be terminated on the grounds that the person's ill- health or infirmity of mind or body renders them "permanently incapable" of discharging efficiently the duties of that employment?
 - c) How soon after leaving local government employment could the person be expected to be capable of undertaking other "gainful employment"?
3. In addressing the medical questions, employers need to obtain an opinion from an approved independent doctor "qualified in occupational health medicine". Employers have no authority to grant the early release of benefits unless there is a permanent incapacity to discharge efficiently the duties of the relevant employment by reason of ill health. There is also a further requirement for the doctor to certify whether there is or is not a reasonable prospect of the employee obtaining gainful employment before normal pension age (Tier 1 or Tier 2).

Completing the Certificate

4. Section 1, which must be completed by the employer, identifies the employee concerned and their current occupation. A job description should also accompany the form.
5. Section 2, which must be completed by an approved independent doctor qualified in occupational health medicine" is in two parts:
 - Part 1 requires the doctor to give an opinion on whether the member IS (Box A) or IS NOT, (Box B), permanently incapable, for health reasons, of doing their normal job. Terminal illness – the doctor can indicate whether life expectancy is less than 1 year. This enables the administering authority to consider whether to commute the pension to a lump sum.
 - Part 2 requires the doctor to certify if he/she thinks the member IS UNLIKELY (Box C) or IS LIKELY (Box D) to be capable of undertaking gainful employment before his/her normal pension age.
 - Part 3 requires the doctor to certify if the member is unable to continue in his/her current job/office and is unlikely to be capable of taking on any other paid work in any capacity, otherwise than to an insignificant extent before State pension age. (Note: the answer to this question is used to determine whether or not the person could be subject to a tax charge in accordance with the annual allowance test under the Finance Act 2004).
6. Section 3 is a declaration of the Medical Practitioner's independence in this matter.

7. Section 4 must be completed by an employer upon receipt of the Medical Practitioner's certification. It must indicate the date an employer determines whether, or not, LGPS pension benefits can be paid on grounds of ill health and if so, their level. The LGPS regulations make the question of entitlement to ill health benefits conditional upon the submission of a medical certificate, rather than the termination of employment. However, it is the employer, not the independent doctor that determines the entitlement to the early release of pension benefits on the grounds of ill health. The certificate provides the employer with the relevant medical opinion as to whether or not the criteria for entitlement are satisfied.

7. If you have any further enquiries please contact:

The Pensions Team
Scottish Borders Council
HR Shared Services
Old School Building
Newtown St Boswells
TD6 0SA

Telephone 01835 826577 or 01835 825205

E-mail: pensions@scotborders.gov.uk

REFERRAL FOR OCCUPATIONAL HEALTH CONSULTATION



Please note appointments can not be made without correctly completed referral form and it is the referring manager's duty to ensure the employee is fully aware of the reason for referral.

Client Name	Scottish Borders Council	Client Location	Newtown St Boswells
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Employee Details

Full Name:		Date of Birth					
Home Address (Including Postcode)		Job Title					
		Employment Start Date					
		Telephone Number Mobile Number					
Working Hours:	Mon	Tue	Wed	Thurs	Fri	Sat	Sun
Shift pattern Days / Nights / Rotating*							

* delete

Reason for Referral

	Long term sickness absence (at 4 weeks or expected to be continuous sickness)
	Short term sickness (frequent or sporadic sickness -please attach details to referral)
	Health Surveillance (State type of surveillance required)
	Other Management Concerns (Please append details to referral)

Is the employee a shift worker?	YES		NO	
Is the employee in work currently?	YES	First Date of Illness:	NO	
		First Date of Absence:		
Can short term work place adjustments be made?	YES		NO	

Absence History

No absence

Date absence began

Reason for absence

(Please take absence reason directly from Fit Note)

Has the employee returned to work?

(If yes please give date and any modified duties)

Advice required from Occupational Health: (Please only tick boxes required)

	What is the employee's current state of fitness for work?
	Likely date of return to work?
	What effect will this condition have on the employee's ability to carry out his/her current position?
	Are there any modifications/adjustments which would alleviate the condition or aid rehabilitation?
	Are there any particular duties the employee will not be able to carry out?
	Is the condition likely to reoccur in the future?
	Specific information/advice sought:

The more information you provide, the more thorough we are able to be in dealing with the referral.

Referring Manager Details:

Name of Referring Manager	
Title of Referring Manager	
Company Address	
Office Telephone Number	
Mobile Telephone Number	
E-Mail address	

Notes

1. Failure to provide all necessary information will impact on the outcome of the appointment.
2. Please ensure you are familiar with the PAM Consultation Policy.
3. We encourage managers to have a discussion with the clinician. Please indicate your instructions and ensure your availability on the number/s provided.

Client Briefing Instructions

I **Do/Do Not** require a briefing call from the clinician prior to the appointment

I **Do/Do Not** not require a de- briefing call from the clinician after the appointment

***If you indicate a call is required please ensure you are available at the appointed time/s on the numbers provided. In the event that you do not require a call, please note that our clinician may still call you if this is likely to add value to the referral**

<u>Additional Manager Comments</u>

Manager Signature: **Date:**

Employee Consent

(To be signed/verbally agreed during the first appointment with People Asset Management Clinician)

I understand that relevant information regarding my health/work will be passed to the referring manager and that my Occupational Health record is stored confidentially by PAM OH Solutions.

.....
Signature of Referred Employee

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 of 4 or more days **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 4 or more consecutive calendar days including Saturdays, Sundays, public holidays and annual leave. SSP is only payable for agreed "qualifying days" of sickness. The first 3 qualifying days are normally waiting days for which no SSP is payable.
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

(Non Teaching Staff)

1. With effect from 31 March 2009 new Local Government Pension Scheme regulations introduce 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 (Appendix 26) would be completed. HR 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.

(Teaching Staff)

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		
SBC Human Resources team	ashkhr@scotborders.gov.uk	01835 825052/53
Health and Safety Team:	healthandsafety@scotborders.gov.uk	
External Services		
Access to Work Scheme	www.gov.uk/access-to-work	
Alcoholics Anonymous	help@alcoholics-anonymous.org.uk	0845 769 7555
Beating Eating Disorders (Scotland)	www.b-eat.co.uk Email help@b-eat.co.uk	0845 634 1414
Citizens Advice Central Borders	http://www.cas.org.uk/ Email: enquiries@centralborderscab.casonline.org.uk	01896 753889
Cruse (Bereavement Care)	www.crusebereavementcare.org.uk	0845 600 2227
Direct Gov website	https://www.gov.uk/browse/disabilities	
Equality & Human Rights Commission	www.equalityhumanrights.com/	
Narcotics Anonymous	http://ukna.org/	0300 999 1212
NHS 24	http://www.nhs24.com/	Freephone 111
One Parent Families Scotland	http://www.opfs.org.uk/	0808 801 0323.
Pain Concern UK	www.painconcern.org.uk Email to: help@painconcern.org.uk	0300 123 0789 (limited availability)
Relationships Scotland	http://www.relationships-scotland.org.uk/find-a-local-service/counselling-services/borders	0845 119 2020
Samaritans	http://www.samaritans.org/ mailto:jo@samaritans.org	08457 909090
Scotland - Stonewall	https://www.stonewall.org.uk/scotland Email: info@stonewallscotland.org.uk	0131 474 8019
Scottish Transgender Alliance (Equality Network)	http://www.equality-network.org/ Email: sta@equality-network.org or info@scottishtrans.org	0131 467 6039
Stresswatch Scotland	www.patient.co.uk/leaflets/stresswatch_scotland.htm	
Terence Higgins Trust (Scotland)	www.tht.org.uk infoscotland@tht.org.uk	0141 332 3838
The Scottish Association for Mental Health	http://www.samh.org.uk/home.aspx mail to: enquire@samh.org.uk	0141 530 1000

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