

ABSENCE MANAGEMENT PROCEDURE

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This guidance note applies to all employees of Dover District Council ("the Council") and should be read in conjunction with the Absence Management Policy.

1. GENERAL PRINCIPLES

- 1.1 All cases of ill health should be handled sensitively and constructively with due regard to confidentiality. Managers should reassure employees that medical information about them will be treated in confidence and that any breach of confidentiality will be regarded as serious and potentially as a disciplinary matter. However, employees should be aware that it will be necessary for the Council to share the employee's medical information for the purpose of managing their absence. In such situations, access will be limited to those who are involved in the matter.
- 1.2 Consistency and fairness are important, but each case will be different. Human Resources (HR) is available to give all employees advice and support on any matters relating to the management of sickness absence.
- 1.3 This procedure deals with what employees should do when they are unable to attend work due to sickness, and what managers should do when a member of their team is absent due to sickness.

2. NOTIFICATION AND CONTACT DURING SICKNESS ABSENCE

- 2.1 Employees must notify their manager by telephone on the first day of absence, as soon as reasonably practicable and no later than 30 minutes before their normal start time in order that adequate cover can be arranged, if necessary. If the employee's manager is not available, the employee should report their absence by telephone to the manager designated to deal with sickness absence in this instance. The employee should notify their manager personally, unless there are exceptional circumstances that prevent them from doing so. A text message, email or contact via social media is not an appropriate or acceptable way of informing a manager of an employee's absence. The Council recognises that there may be local arrangements in place for sickness absence reporting, for example, for shift workers.
- 2.2 Employees must inform their manager of the reason for their absence and how long they expect to be away from work.
- 2.3 Employees must keep in contact their manager daily (or as agreed) for absences longer than one working day, for which they expect to self-certify, indicating when they anticipate being able to return to work.
- 2.4 Regardless of the frequency of contact agreed with their manager, the employee must remain contactable at any time for the duration of their sickness absence.
- 2.5 The employee must attend and participate in a meeting with their manager on their return, during which they may discuss how they are and any problems or issues; this will include a review of the employee's absence record.
- 2.6 The employee's manager must create a record of the employee's absence on East Kent People.
- 2.7 For details on appropriate questions to ask when an employee calls in, see Absence Guidance.

3 SELF-CERTIFICATION AND FIT NOTES

- 3.1 If the employee is unfit for work for seven calendar days or less there is no need to supply a Fit Note. However, the employee must self-certify the absence via the Return-to-Work form which is completed by their manager.
- 3.2 If the employee is unfit for work for longer than seven days (including weekends, Bank Holidays and non-working days) they are required to provide a Fit Note on the eighth day of absence. This should be sent in the case of longer periods of absence or given to the employee's manager during the Return to Work meeting, who will then send it to HR, after having noted the contents (for example, any adjustments necessary to enable the employee to return to work).
- 3.3 If the period of sickness is likely to continue past the date covered by the first Fit Note, the employee must:

- i) See their GP before the end date on their current Fit Note to obtain another.
 - ii) Send this new Fit Note to their manager before the end date on their current Fit Note.
 - iii) Continue to provide Fit Notes on this basis until they are fit to return to work.
- 3.4 If the employee enters a hospital or similar institution, they are requested to provide the Council with a copy of their discharge notice. Employees do not need to supply Fit Notes during their time in hospital.
- 3.5 If the employee feels they are well enough to return to work before the expiry of their Fit Note, he or she must inform their manager prior to their proposed return. The employee's manager will determine whether it is safe for the employee to return to work, depending on the requirements of the job and taking guidance from HR as appropriate. The Council will make every effort to accommodate the employee's wishes, including allowing the employee to undertake amended duties for a temporary period (refer to section 9 in this instance). However, any decision by a manager not to allow an employee to return to work before the expiry of the Fit Note is solely at their discretion and is final.
- 3.6 Further guidance regarding Fit Notes can be found in the Absence Guidance.

4 RETURN TO WORK INTERVIEWS

- 4.1 Return to work interviews are particularly useful in managing sickness absence and should be carried out after every incident of sickness absence, ideally at the beginning of the employee's first shift back at work but in any event within the first 3 days of the employee returning to work.
- 4.2 There may be some situations where the return-to-work meeting cannot take place face-to-face. In such situations, the meeting may take place over the telephone.
- 4.3 The return-to-work interview is an opportunity for the manager to confirm with the employee the reason for their absence, that they are well enough to return to work and if there is any support that they need. This forms an important part of the informal management of sickness absence and could be relied upon in further stages of the formal capability procedure. As such, return to work interviews should be carried out after every instance of absence.
- 4.4 If the individual was absent, due to sickness, for less than eight calendar days there is no need to provide any written documentation. If they have been absent for 8 days or more, they will need to bring a Fit Note with them which should explain the nature of their illness and confirm any recommendations to facilitate their return to work (see managing long-term sickness below).

- 4.5 If the employee's absence has been lengthy and/or has involved a referral to Occupational Health in some circumstances they may, if they wish, be accompanied by a workplace colleague or trade union representative.
- 4.6 The Return-to-Work meeting may encompass a discussion under the Improvement Procedure and/or the discussion may be documented form part of the investigation pack to be considered in any disciplinary process relating to the employee's absence. The exact content and purpose of the Return-to-Work discussion will depend on the level of the employee's absence in comparison with the Council's stated triggers.
- 4.7 Managers should consider accessibility of the online Return to Work form for employees without computer access at work and ensure they forward the completed form to the employee's home email or provide a printed copy where necessary.
- 4.8 More guidance on the return-to-work interview can be found in the Absence Guidance.

5. WORK-RELATED STRESS

Where an individual or their Fit Note indicates their absence is due to stress or depression resulting from work factors, a meeting will be arranged prior to referral to Occupational Health between the manager and the individual. A union representative or workplace colleague may attend this meeting if the individual wishes. In cases where the employee feels that their line manager is contributing to the stress that they are experiencing, it may be agreed that this conversation takes place with another manager in the Council. This will enable the Council to investigate the work factors and take action where possible. A Stress Risk Assessment may be completed as part of the meeting to aid discussions on how stress triggers may be eliminated or reduced. This will hopefully result in a speedier recovery and return to work.

6. MANAGING ABSENCE LEVELS

- 6.1 The Council has set absence trigger points, above which it is considered that the employee's absence is detrimental to the efficient undertaking of Council business. The employee's manager may follow the Improvement Procedure or the Disciplinary Procedure, both of which are set out within the Performance & Conduct Procedure, depending on the particular trigger which has been reached and the specific reasons for the high absence levels.

The informal and formal management of sickness is very important, as is the necessity to show that the Council has done all that is reasonably possible to assist the employee in maintaining an appropriate level of attendance.

6.2 Unacceptable absence levels can be categorised in two ways:

- Frequent, short-term instances of absence (in excess of the acceptable level of instances determined by the Council in a rolling 12-month period);
- Long-term absence, exceeding the acceptable level of continuous absence determined by the Council (pro rata)

6.3 The Council may count a period of long-term absence as one instance of absence towards the short-term absence triggers.

6.4 When an employee reaches an absence trigger point as a result of either frequent short-term absence or a period of long-term absence, the manager will consider whether it is appropriate to follow a process set out in the Performance & Conduct Procedure. In making this decision, the manager will seek advice from HR and will consider the specific circumstances of the matter in question. As matters relating to sickness absence can vary considerably, any decision made in respect of one employee does not necessarily set a precedent for another. However, the Council will treat all employees consistently.

6.5 In normal circumstances, when an employee reaches an absence trigger point for the first time, the manager may invoke the Improvement Procedure, as set out in the Performance & Conduct Procedure. The manager will, normally during the Return to Work meeting, inform the employee of the required improvement in attendance and agree targets to be reviewed over a defined period. The employee will be informed that, if his or her attendance does not improve, the Disciplinary Procedure may be invoked.

When undertaking an informal review of absence at this stage, the manager should consider the following points:

- Is there any discernable pattern to the absence, for example, recurrent absences on Mondays or Fridays;?
- What proportion of the absence is self-certified and what proportion is supported by a Fit Note;
- What reasons have been given for previous absences – are the causes varied or are they linked to one condition.
- What information has been gathered from previous return to work interviews;
- What other evidence might be available regarding the possible underlying causes of the absence.

Analysis of the above points may help the manager and the employee to explore any issues resulting in the higher-than-average levels of absence.

6.6 In normal circumstances, when an employee reaches an absence trigger point for the second time, the manager may invoke the Disciplinary Procedure, as set out in the Performance & Conduct Procedure. The manager will, normally within the Return-to-Work meeting, conduct an investigation into the employee's absence in order to establish whether a disciplinary hearing should go ahead. If a hearing takes place, a disciplinary warning may be issued, and the employee will be set targets to improve his or her attendance over a defined period.

6.7 Where the employee's level of sickness absence continues to be unacceptable, and triggers are reached for the third and subsequent times, the Council may invoke further disciplinary procedures which may result in a disciplinary warning up to and including

dismissal.

- 6.8 The Council may, at its discretion, extend the timeframe over which absence is reviewed, beyond the standard rolling 12-month period, to include instances of absence which occur soon after the employee's absence level has reduced below the trigger point.
- 6.9 The Council may require the employee to attend a meeting with Occupational Health and allow the Council access to any subsequent report. Likewise, the Council may request that the employee provides a report from their GP on any medical conditions. The employee is not obliged to agree to either of these requests. However, if he or she does not agree, the Council will make decisions, including about disciplinary warnings, based on the information which is known.
- 6.10 The distinction must be drawn between those situations where an employee's performance in their role is unsatisfactory because of illness or absence from work and those where the employee's performance is unsatisfactory due to reasons not connected with illness or absence. The latter is a performance capability issue and should be dealt with in accordance with the Council's Performance & Conduct Procedure. Likewise, where the employee is capable but refuses to work to the required standard, this may be considered as a conduct issue and should also be dealt with in accordance with the Council's Performance & Conduct Procedure.
- 6.11 The purpose and style of the meetings, whether informal or formal, should be positive and constructive. The employee should be helped and encouraged to understand that their absence levels present a problem to the Council, and the discussion should then explore the reasons for the absence with the aim of identifying practical steps that might be taken to reduce absence levels in the future. Managers should explore all issues as widely as possible, avoiding drawing early conclusions and listening carefully to the employee's views.
- 6.12 There may be instances in which, due to specific circumstances, the individual or their representative may not be able to attend a hearing. When this occurs, the individual should inform the manager or HR representative with as much notice as is possible in order that the hearing can be rearranged.
- 6.13 Where possible, the hearing will be held on another date. However, this will depend on individual circumstances, the needs of the service and the reason for non-attendance. Hearings will normally only be re-arranged once.
- 6.14 Where a hearing is to take place and the individual is unable to attend, they should be made aware of the opportunity to provide written representations or

participate by telephone or Facetime. The Council may consider arranging a more convenient location for the hearing. In addition, they may give permission to be represented by their representative. Written representations in lieu of appearance must be submitted at least three clear working days before the hearing.

- 6.15 Further details regarding the process for managing unacceptable absence can be found in the Absence Guidance. Sections 7, 8 and 9 of this procedure set out points to consider when managing short-term and long-term absence, and when a potential outcome might be dismissal due to capability on the grounds of ill-health.

7. CONSIDERATIONS WHEN MANAGING SHORT-TERM ABSENCE

- 7.1 In the case of frequent instances of short-term absence, it is important to discuss the absences with the employee and identify any underlying reasons for those absences. This should be done as part of the return to work meeting. If there is an underlying medical condition it may be appropriate to refer the individual to Occupational Health, but in any event the manager should have a discussion with the individual to understand how the condition affects them and whether there is any support that the Council could provide that would assist them.
- 7.2 The individual should be made aware of the level of attendance that is expected of them and the consequences of this not being reached. It may be appropriate to remind the employee that they need to take steps to improve their attendance to a level below the absence trigger points.
- 7.3 In both instances the manager should discuss with the individual any assistance that can be offered to support them in maintaining an acceptable level of attendance. It is important that the manager keeps a record of all discussions that they have with the employee (on the RTW form when appropriate), and any support that has been offered, as this will be required to support any formal action which may be taken.
- 7.4 If there is no improvement in the individual's attendance, action should be taken, firstly in line with the Improvement Procedure, and if no improvement thereafter in line with the formal stages of the Performance & Conduct procedure. Where the attendance continues to be a problem this could result in dismissal.
- 7.5 The manager should maintain all notes of discussions with, and letters to, individuals and these should be forwarded to HR for the individual's personnel file. Notes should be signed and dated by both parties and a copy should be given to the individual.
- 7.6 The provision of Fit Notes to cover absences does not preclude the manager from taking action under this procedure. In all instances it should be remembered that it is the impact of the absence on service delivery, which is being addressed, not the specific reason for the absence.

8. CONSIDERATIONS WHEN MANAGING LONG-TERM ABSENCE

- 8.1 Long-term absence is when employees have been unfit for work for a continuous period, which exceeds the acceptable level set by the Council.
- 8.2 Long-term absence may be specific and clearly defined or may be relatively non-specific and indefinite. Where an individual has, for example, a broken leg or has had an operation, there is normally a predictable end date to the absence after which they

can be expected to return to work and resume a satisfactory attendance record. In such cases it will not normally be necessary for managers to take action other than to remain in contact with the individual.

8.3 In some cases (for example, a broken leg), it may be appropriate to make reasonable adjustments to the employee's role or working location in order that they can come back to work sooner. Managers should contact HR for advice in such situations.

8.4 The more difficult situations are those where the cause of the illness or prognosis for recovery is less well defined and the timescale for a return to work is unknown. This procedure is intended to enable managers to deal fairly and reasonably with such cases.

8.5 Steps to be followed:

8.5.1 Advice must be sought from HR.

8.5.2 When employees are absent for a period of time it is important that the manager keeps in regular contact so the individual is supported, does not feel isolated and so that an accurate picture of the circumstances can be maintained. There is also an obligation on the part of employees to keep their manager updated with regard to their health situation. Managers should have a discussion with the individual to agree the level of communication that will allow both them and the employee to keep up to date.

8.5.3 In some situations an Occupational Health referral will be appropriate. The referral should be made after discussion between the manager and the employee. This discussion should take place at the employee's place of work or in exceptional circumstances at the employee's home. If the discussion takes place at the employee's home, the manager should be accompanied by a colleague. Notes should be taken of the discussion. Depending on the specific circumstances, an individual may wish to be accompanied by a workplace colleague or trade union representative only.

8.5.4 Managers must complete an online Occupational Health referral, which will generate an email advising of the date and time of the appointment. These details should be forwarded to the employee, and the manager should confirm the employee's attendance and provide support with transport as appropriate.

8.6 Phased Return to Work

8.6.1 Where an individual has been absent for a considerable period, the Occupational Health Advisor may recommend a phased return to work, which could involve shorter working hours or reduced job duties for example. This would normally only be for a relatively short period of time [normally for a period of up to six weeks and in any event not exceeding eight weeks] and would be with full pay.

8.6.2 Where an individual's GP suggests a return to work on reduced hours, the Council will continue to pay full pay in these instances for a period of up to six weeks and in any event not exceeding eight weeks. This is conditional upon the individual attending the earliest available appointment with Occupational Health. The manager will confirm the agreement to work reduced hours, in writing to the individual.

8.6.3 Each individual case will be considered on its merits and, where appropriate, a period of phased return may be extended in consultation with HR.

8.6.4 Where the Occupational Health Adviser recommends that the individual does not

return to their normal duties, the following alternatives should be considered:

- i) A temporary or indefinite reduction in working hours / days [normally with reduced pro-rata pay where the reduction in hours exceeds 8 weeks];
- ii) A change in duties.
- iii) A suitable alternative role within the Council.
- iv) Other reasonable adjustments.

9. CONSIDERATION OF DISMISSAL

9.1 No decision to dismiss should be taken without first consulting HR. In assessing whether it is appropriate to instigate a process leading to termination of employment the following factors will need to be considered:

- i) The nature of the illness
- ii) The impact on service delivery
- iii) Any medical advice/prognosis on the individual
- iv) The effect of continuing absence on the work which needs to be done
- v) The difficulty of continuing with a temporary replacement
- vi) The individual's length of service
- vii) The availability of suitable alternative work or working arrangements (refer to section 10)
- viii) The views of the individual
- ix) The budgetary impact of the continuing absence
- x) The impact of the continuing absence on work colleagues

9.2 Dismissal must be viewed as a last resort and the individual should be aware that dismissal may be an option prior to any action being taken in this regard.

9.3 If, after every other option has been considered and discounted:

- i) The individual is unable to return to work within a reasonable period of time or;
- ii) The Occupational Health Adviser has stated that the individual will be unfit to return to work within a reasonable period or;
- iii) The individual's medical condition prevents them from returning to their original position and no alternative work is available and no reasonable adjustments can be made.

then dismissal on the grounds of capability due to ill health may be deemed to be fair and reasonable.

9.4 The Council will consider, and will seek the opinion of Occupational Health, whether the employee may be eligible for ill-health retirement as part of the investigation process taking place prior to any disciplinary hearing.

9.5 Any decision to terminate employment on the grounds of incapability due to ill health will be taken in line with the Performance & Conduct Procedure (section 6), taking account of advice from HR which will be based on advice from Occupational Health and any representative acting on behalf of the individual.

10. ALTERNATIVE WORK OR WORKING ARRANGEMENTS

- 10.1 Wherever possible employees should be retained in their existing posts, with their existing responsibilities and working arrangements and, having been given an opportunity to recover within a reasonable timescale, should return to that work. However, the Council recognises that it is sometimes necessary to consider whether offering alternative work to the employee may facilitate their return to work and enable ongoing and sustained employment with the Council. In some circumstances, the Government's Access to Work programme may be useful to identify and implement alternative working arrangements (see Section 12).
- 10.2 In such circumstances, alternative work may range from a change in the employee's responsibilities or working hours or location in their current role to a transfer to a different role within the Council, both of which may be put in place on either a permanent or a temporary basis.
- 10.3 If the employee has a long-term medical problem, and it is established that the current employment is no longer suitable for an individual, every effort will be made to consider possible alternative employment, bearing in mind their medical condition and the requirements of the Equality Act 2010 where this applies. At this point, the employee will be asked to complete a skills assessment and HR will monitor suitable alternative vacancies.
- 10.4 A proper investigation into the suitability of a particular role may require a medical opinion. Where this is indicated, the manager should seek a medical opinion, in accordance with this procedure, from an Occupational Health Adviser, and also seek advice from HR.
- 10.5 Supported by HR, managers will investigate all available alternative roles. Finding alternative employment is particularly important where the illness may be work-related. Every effort will be made to identify appropriate alternative work for an employee in this situation. Employees who have a long-term medical condition which is covered under the Equality Act will be given priority in the recruitment process for roles in their substantive Council.

11. DISABILITY DISCRIMINATION

- 11.1 The Equality Act 2010 makes it unlawful to discriminate against someone who has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities.
- 11.2 Where an individual becomes disabled whilst in service this does not necessarily mean that they are medically unfit to work and the employer is obliged to make reasonable adjustments to the workplace if these could enable the employee to fulfil their job responsibilities.
- 11.3 Employers may have to make reasonable adjustments to their employment arrangements, or to premises, so that disabled employees or prospective employees are not at any substantial disadvantage compared to a non-disabled person. These could include, but are not limited to:
 - i) Altering premises, e.g., widening a doorway, providing a ramp, non-slip flooring, moving furniture, altering lighting, or providing parking spaces for

- disabled drivers
- ii) Re-allocating some duties
- iii) Transferring the individual to fill an existing vacancy
- iv) Altering working hours
- v) Changing the individual's place of work
- vi) Allowing absences during working hours for rehabilitation, assessment or treatment
- vii) Supplying additional training
- viii) Acquiring or making changes to equipment
- ix) Making provisions for a work buddy, reader, support worker or a sign language interpreter
- x) Where possible, allowing part-time working or job share arrangements
- xi) Allowing flexibility around breaks during the day or the taking of annual leave

In deciding whether an adjustment is 'reasonable', employment tribunals will consider the following factors:

- i) The improvement an alteration will make for disabled employees or prospective employees.
- ii) The ease of the adjustment.
- iii) The cost of the adjustment, both financially and in terms of the disruption it will cause.
- iv) The extent of the employer's financial or other resources.
- v) Financial or other help that may be available.

- 11.4 It is very difficult to know to what extent an adjustment should be made, and in all cases where disability may be an issue managers should discuss the case with the HR.

12. ACCESS TO WORK PROGRAMME

- 12.1 The Government's Access to Work programme may be used by the Council to assist with the recruitment and retention of an individual with a disability. Access to Work is an employee self-referral scheme, which may assist where an employee's absence is linked to a disability or mental ill-health.
- 12.2 Access to Work is provided through Jobcentre Plus and can provide advice and practical support to disabled people and their employers to help overcome work related obstacles resulting from a disability. Access to Work can also agree to pay a grant, through Jobcentre Plus [Dept for Work and Pensions], towards extra employment costs resulting from a disability. This can help pay for special equipment or alterations to existing equipment to suit particular work needs arising from a disability or alterations to premises or working environment, if needed because of disability.
- 12.2 Further information about this programme can be requested by visiting the website www.gov.uk/access-to-work or by contacting Access to Work on 0345 268 8489.

13. SICKNESS DURING ANNUAL LEAVE

- 13.1 If the employee is taken ill on a Bank Holiday or during a period of annual leave, or a pre-booked period of leave coincides with a period of illness and it is more appropriate to treat the period as sick leave rather than annual leave, they are required to follow the normal notification procedures on the first day of sickness absence, even if they

are abroad. Unless requested, annual leave will not be reimbursed.

- 13.2 It is not acceptable for the employee only to notify the Council of their illness upon their return from annual leave.
- 13.3 Annual leave up to and including the statutory minimum may be reclaimed without a Fit Note. Annual leave above the statutory minimum (i.e., contractual annual leave) may only be reclaimed if a Fit Note is provided.
- 13.4 The relevant period of annual leave may be taken at a later date, in the same leave year, with the prior approval of the employee's manager. Payment in lieu of annual leave cannot normally be made other than on termination of employment.

14. ACCESS TO MEDICAL RECORDS

- 14.1 Under the Access to Medical Reports Act 1988, reports from an employee's GP or treating specialist can only be obtained with an individual's written permission. In the event that an employee refuses permission for the Occupational Health Adviser to seek relevant medical information, the manager may, with advice from HR, make decisions on such information as is available, which may be to the detriment of the individual. This will be fully explained to the individual in writing.
- 14.2 Further information regarding the process for obtaining permission to access an employee's medical information can be found in the Absence Guidance.