

PERSONNEL COMMITTEE

28-MARCH 2012

HUMAN RESOURCES – SICKNESS AND ABSENCE POLICY

REPORT OF THE HEAD OF ORGANISATIONAL DEVELOPMENT

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RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

The Absence Management Policy has been updated to make sickness and absence management as robust as possible and help employees and managers to be clear about the sickness and absence procedures.

The new policy will also give clearer guidance to managers on how to deal with frequent short term absence and the process for long term sickness absence and shows where the appropriate interventions are made.

The report also updates Members on the position with shared occupational health services.

There will be briefing sessions for managers and the policy will be available on the Intranet, and publicised in City Voice and through Core Brief.

RECOMMENDATIONS:

1. That the Absence Management Policy and Procedure be agreed and implemented.

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HUMAN RESOURCES – ABSENCE MANAGEMENT POLICY AND PROCEDURE

REPORT OF THE HEAD OF ORGANISATIONAL DEVELOPMENT

DETAIL:

1 Introduction

- 1.1 Sickness and absence management is a priority within the Council to maximise productivity and the use of resources available and to promote health and wellbeing within the workforce.
- 1.2 The purpose of this policy and procedure is to ensure the fair and consistent treatment of employees who have frequent or excessive short term absence or are unable to attend due to longer term ill health. It provides a framework for managers to support and encourage reliable attendance at work, and promoting effective management of sickness absence and ill health.

2. Absence Management Policy

- 2.1 Current Absence Management procedures and practices have been reviewed to ensure that they are legally compliant and continue to follow best practice. These need to be applied consistently across the organisation and this policy gives clarity to the processes that should be followed by managers and staff.
- 2.2 The Absence Management Policy and Procedure is shown in Appendix 1 and it gives details for managing both short term and long term absence.
- 2.3. There will be more rigorous monitoring from Human Resources and line managers.
- 2.4. Clarity has been given to the management of employees who have frequent short term absence and it is proposed that they will be subject to an improvement plan which will need to be managed by line managers.
- 2.5. If an employee's attendance does not improve within a specified time period then the employee will be required to attend an Absence Hearing. The outcome of an Absence Hearing may be First Written Warning, Final Warning or Dismissal due to failing to meet his/her contractual obligations due to reasons of frequent sickness absence.

3. Consultation

- 3.1 There has been consultation on the Policy with Unison and managers and the comments made have been incorporated into the Policy and Procedures.

4. Occupational Health and Well Being Services Update

- 4.1 In January 2011, the HR Shared Services Project Team recommended to the Corporate Management Team the undertaking of a full tender exercise to develop a comprehensive and detailed specification and an accurate cost model for an occupational health and wellbeing service. The decision to proceed was granted following a market test exercise which demonstrated the opportunity to achieve efficiencies through economies of scale.
- 4.2 The procurement exercise has now been completed and the evaluation of the tender responses undertaken. Unfortunately, the market was unable to deliver a solution that fully met the expectations of the all of the partner organisations. During December, additional clarification was sought on the costing structures, which highlighted further issues, particularly around TUPE and Pensions for Hampshire County Council.
- 4.3 Over the last 6 weeks the project board has sought to address these issues and explored several options, including the issue of a revised invitation to tender to see whether a more affordable option could be obtained, which would benefit all authorities. Based on the outcome of initial clarification activities with suppliers, risk assessment and the cost of continuing the project for a further 6 months, the Board agreed that the potential outcome would not necessarily deliver a significantly different result.
- 4.4 On 23 February the Project Board recommended to all partners that the contract award procedure be discontinued on the basis that the tender submissions either did not meet the requirements of the specification or they proposed solutions that were unaffordable for the partnership as a whole.
- 4.5 Whilst this outcome is disappointing, the way in which the partners have worked collaboratively during the project has been extremely positive and the non award of the contract should not detract from this. The provision of the services for the Council will continue to be delivered on a pay as you go with our current providers.
- 4.6 It is proposed that discussions continue with Surrey County Council who were part of the partnership with a view to participating in a re-tender process utilising the original specification at no cost within a 6 month period.

- 4.7 A further report would be brought back to this Committee subject to a satisfactory framework agreement being in place and the cost of a new provider being acceptable for approval to purchase an Occupational Health and Wellbeing Service.

OTHER CONSIDERATIONS:

5. SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 5.1 The need to make the best use of all available resources by the continued consistent application of policies and procedures which enable resources to be utilised effectively within the City Council is an integral part of the Corporate Strategy.

6. RESOURCE IMPLICATIONS:

- 6.1 Contained in the detail of the Policy and procedure

7. RISK MANAGEMENT ISSUES

- 7.1 Increased levels of absence impact on productivity and the ability to deliver a cost effective service.

BACKGROUND DOCUMENTS:

Held in Organisational Development (excluding information on individuals which is exempt information).

APPENDICES:

Appendix 1 Absence Management Policy and Procedure.

POLICY FOR THE MANAGEMENT OF SICKNESS ABSENCE

CONTENTS

1. **Purpose and scope**
2. **Principles**
3. **Unauthorised absence**
4. **Authorised absence**
 - 4.1 **Authorised absence – not health related**
 - 4.2 **Authorised absence - health related**
5. **Failure to attend work with no explanation**
6. **Monitoring absence**
7. **Disability discrimination (Equality Act 2010)**
8. **Rehabilitation**
9. **Counselling**
10. **Types of sickness absence**
11. **Procedure – short term intermittent sickness**
 - 11.1 **Informal procedure**
 - 11.2 **Formal absence hearing**
12. **Formal Action**
 - 12.1 **First written warning**
 - 12.2 **Final written warning**
13. **Dismissal**
14. **Appeal**
15. **Procedure – long term sickness**
16. **Appeals procedure**
17. **Revision**

Appendix 1 – sickness reporting procedure

Appendix 2 – return to work interview

SICKNESS ABSENCE MANAGEMENT POLICY AND PROCEDURE

1 PURPOSE AND SCOPE

- 1.1 The Council recognises that our employees are the key to delivering a first class service and that the health and wellbeing of our workforce is important in enabling us to achieve our objectives. While recognising that employees may be prevented from attending work through ill health, all staff are expected to meet their contractual obligations to attend work on a regular basis and be accountable for their absences. The purpose of this policy and procedure is to ensure the fair and consistent treatment of employees who have frequent or excessive short term absence or are unable to attend due to longer term ill health. It provides a framework for managers to support and encourage reliable attendance at work, and promoting effective management of sickness absence and ill health.
- 1.2 The Council will achieve this through:
- Promoting the health safety and wellbeing of all employees, including the use of risk assessments to identify and manage hazards impacting on the health of the workforce
 - Implement procedures to support and manage staff absences in dealing with unjustified and/or high levels of sickness and longer term ill health
 - Monitoring levels of sickness absence on a monthly basis
 - Training managers on how to manage absence
- 1.3 This procedure is compliant with recent legislation and utilises as far as is practicable Advisory Conciliation and Arbitration Service (ACAS) best practice. It has been developed in consultation with the recognised trade union. While it is expected that it will be followed in all cases wherever practicable, it does not form part of the contract of employment. The Chief Executive and Statutory Chief Officers (i.e. the Monitoring Officer and Head of Finance) are subject to a separate national procedure which adopts similar principles. The procedure applies to all other employees of the Council.
- 1.4 This Procedure only deals with issues of frequent or excessive short term absence and long term absence through ill health. Issues of frequent or excessive short term and long term absence through ill health that arise during an employee's probationary period will be dealt with under the Short Capability Procedure. The Disciplinary Procedure addresses issues relating to employees' misconduct, which

includes abuse of the sickness absence reporting procedures, unauthorised absence and refusal to explain an absence.

1.5 Managers using this procedure will maintain fairness and consistency of treatment, and avoid discrimination in accordance with the Council's Human Resource (HR) Policies. In this procedure, 'manager' refers to Service Heads, Directors, and the Chief Executive who are designated officers who hold delegated powers under this procedure.

1.6 The power to dismiss any employee rests with the Chief Executive who may delegate to the appropriate Director or Head of Service in consultation with the Head of Organisational Development

2 PRINCIPLES

2.1 There are a number of key principles that underpin the Absence Management Policy and Procedure to ensure that employees are treated consistently, effectively and fairly:

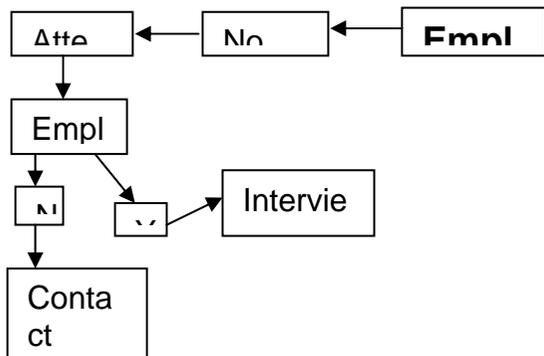
- The Council will regularly monitor and review sickness absences for all employees.
- It is the employee's responsibility to comply with the Sickness Reporting Procedure, which is attached as Appendix 1, and to complete and submit self-certification and Doctor's certificates to their Manager, as appropriate, either on their return to work or as issued during a longer period of sickness absence. Failure to comply may result in disciplinary action and/or salary being withheld.
- Human Resources and the Line Manager reserve the right to request Doctor's certificates for all periods of sickness absence including sickness absence immediately prior to and following a period of annual leave, or in the case of frequent short term absence.
- It is the line manager's responsibility to keep in regular contact with the employee during periods of sickness, especially in cases of long term absence, and to undertake return to work interviews, as set out in Appendix 2, following every period of sickness absence. The manager will monitor an employee's sickness absence on a regular basis and will bring any concerns to the attention of the employee and to investigate any underlying issues.
- Open communication and discussion between the manager and employee is encouraged.

- Matters raised relating to attendance does not imply a lack of trust or belief in the genuineness of the illness.
- The Council will take a positive, preventative, supportive and sympathetic approach to dealing with sickness absence and as appropriate will seek professional advice through the Occupational Health provider.
- As appropriate, employees may be required to attend a medical referral with Occupational Health or relevant medical specialist. .
- Employees have the right to be accompanied at a formal meeting (which may result in a warning of some description being given or dismissal) by an trade union representative or fellow employee. It may be appropriate to allow employees to be accompanied at other meetings.
- At every stage except dismissal, employees will be given the opportunity to improve their attendance.
- Employees will be given a clear written explanation of any formal action taken, the improvements that are required and the timescale of when their absence will be reviewed. The manager has the discretion to extend the review period if appropriate.
- Employees will have the right to appeal against any formal action taken under this procedure.

3 UNAUTHORISED ABSENCE

The fact that absence is unauthorised means that the employee has not discussed and obtained agreement from their manager to be absent.

If the employee does not request authorisation from their manager before going absent, they must expect to give the manager a detailed explanation for the absence and why a request for authorisation of the absence could not be made beforehand. Persistent occurrences of unauthorised absence will be dealt with under the disciplinary procedure.



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4.0 AUTHORISED ABSENCE

4.1 Authorised Absence – Not health related

The manager has the authority to grant time off for a variety of reasons as detailed in the National Agreement on Pay and Conditions of Service book (the Green Book for NJC staff and the white book for JNC staff).

4.2 Authorised Absence – Health related

If an employee is absent due to ill health, the employee must notify their manager in accordance with the Reporting Sickness Procedure. The manager will discuss with the employee at the earliest possible opportunity the causes of this ill health.

It is the manager's responsibility to identify whether the employee's job is affecting his/her health and whether the employee can continue to carry out their full duties. In doing so, the manager should first discuss the situation with a Human Resources Advisor.

Whilst supporting the employee as much as possible, management must balance that support with the requirement to provide a service to the public. Support programmes, such as redeployment, rehabilitation and early retirement on the grounds of ill health may be used

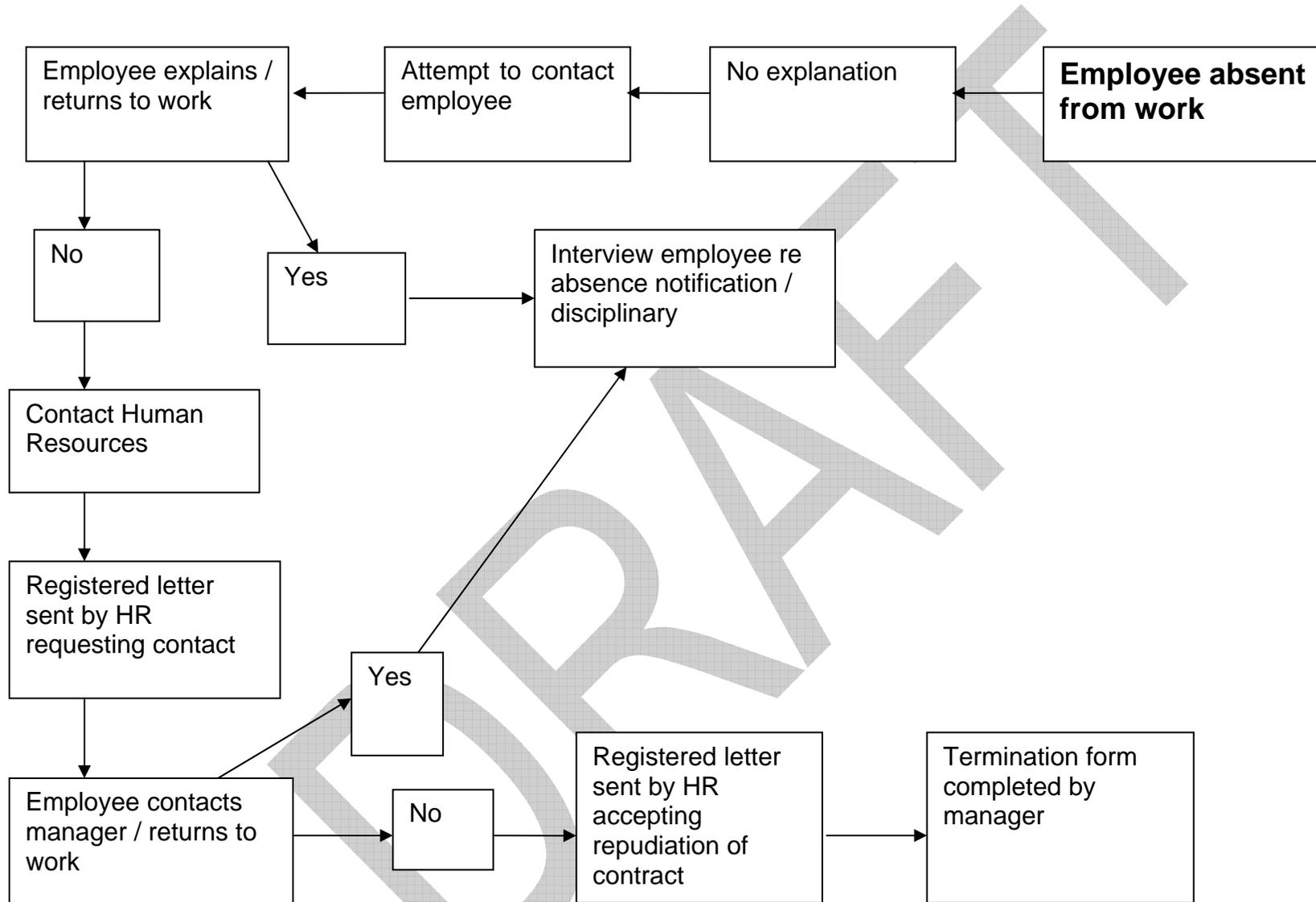
5.0 FAILURE TO ATTEND WORK WITH NO EXPLANATION

5.1 Where an employee takes unauthorised absence and it is believed that they do not intend to return to work, the manager should contact Human Resources as soon as possible. The following action should be taken.

5.1.1 Attempts must be made by the manager to contact the employee to determine the reason for the absence and to establish whether the employee intends to return to work. Failure to follow the procedure for reporting absence is a disciplinary offence and should be dealt with as misconduct.

5.1.2 If the employee fails to respond to reasonable attempts to contact them, the Human Resources Advisor will send a letter by recorded delivery to the employee's last known address. This letter should make clear that a failure to respond to the letter within 14 days will result in the termination of their contract of employment because the employee has voluntarily ended their contract of employment due to their absence.

5.1.3 If the employee does not contact their manager or Human Resources within the stated time period, a Human Resources Advisor will send a final letter of termination accepting the repudiation of their contract. This should be either hand delivered or sent by recorded delivery.



6.0 MONITORING ABSENCE

- 6.1 Selima must be updated by the manager or authorised administrator as soon as they are notified by the employee that they will be absent. Employees must complete a self certification form after the third calendar day. A doctor's note must be provided by the employee on the eighth calendar day (this includes weekends and days off for shift workers).
- 6.2 The manager must complete a return to work interview with the employee as soon as reasonably practicable. This must be recorded on Selima. If Selima is unavailable, the return to work interview must be recorded on paper and a copy sent to Human Resources.
- 6.3 Human Resources will monitor absence on a monthly basis and copies of these reports will be provided for all Heads of Service and Senior Managers. The reports detail length of absence, reason for absence and the employee's Bradford Factor over a rolling 12 month period. Potential issues will be highlighted to the manager by Human Resources. Human Resources will then follow through to see what action has been taken. Further action will be taken if an employee's Bradford Factor has reached 200 or above or where a pattern of sickness has emerged, or if the employee is having a period of long term sickness absence.
- 6.4 Both computerised and manual absence records will be covered by the Data Protection Act and will be held confidentially.

7.0 DISABILITY DISCRIMINATION (Equality Act 2010)

The provisions of the Equality Act will be considered in any case of absence due to ill health and where possible adjustments made to the employees duties or workplace to assist in a return to work.

Definition:- a person with 'a physical or mental impairment which has a substantial and long term adverse effect on his ability to carry out normal day-to-day activities.

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, myalgic encephalitis (ME)/chronic fatigue syndrome (CFS), fibromyalgia, epilepsy;
- progressive, such as motor neurone disease, muscular dystrophy, forms of dementia and lupus (SLE);
- organ specific, including respiratory conditions, such as asthma, and cardiovascular diseases, including thrombosis, stroke and heart disease;
- developmental, such as autistic spectrum disorders (ASD), dyslexia and dyspraxia;
- learning difficulties;
- mental health conditions and mental illnesses, such as depression, schizophrenia, eating disorders, bipolar affective disorders, obsessive compulsive disorders, as well as personality disorders and some self-harming behaviour;

- produced by injury to the body or brain.

The Equality Act states that an impairment has a long –term effect if, at the date of the alleged discriminatory act, it:

- has lasted at least 12 months; or
- is likely to last at least 12 months, or for the rest of the person’s life; or
- is likely to recur if it is in remission.

8.0 REHABILITATION

8.1 In assessing the likelihood of the employee returning to work, a rehabilitation programme should be considered if the employee’s health does not allow a return to full duties but a full recovery is likely.

8.2 The aim of a rehabilitation programme is to: -

- a) provide the opportunity for the employee to be gradually reintroduced to the workplace at an earlier stage in a reduced capacity.
- b) provide an opportunity to assess capability without the pressure of a return to full work duties.
- c) provide cost effective assistance for departments that may be incurring additional staff costs or suffering from staff shortage due to the absence.

Options may include

- a) Normal work at reduced hours
- b) Specified duties only in the normal work area
- c) Temporary redeployment to an alternative work area or alternative type of work within the Council until the employee is certified as fit to return to their post.

8.3 Principles of a rehabilitation programme

8.3.1 Any rehabilitation programme must be for a defined period.

8.3.2 Any programme must be voluntary and any offer of a rehabilitation programme should only be made after full consultation with Occupational Health, the manager and the Human Resources Advisor. This should be discussed and agreed with the employee.

8.3.3 The employee will receive pay commensurate with the hours being done, but not less than they would have received as sick pay.

8.3.4 The programme must be reviewed regularly by the manager and employee and the employee should be subject to periodic medical review.

8.4 When the predetermined rehabilitation period ends, or as soon as the employee is fully fit, they will be expected to return to the full duties of their post. Where this is not possible the following must be considered in accordance with Winchester City Council policies and procedures:

- a) Reasonable adjustments made to the post.
- b) Permanent redeployment into a suitable alternative post
- c) Dismissal on the grounds of medical incapacity.

8.5 The Head of Organisational Development will take responsibility for the equitable implementation of the policy. At any stage, the advice and support of a Human Resources Advisor will be available.

9 COUNSELLING

9.1 Where the cause of the employee's absence may be resolved through formal counselling, the Human Resources Advisor will suggest a referral to the Council's preferred Counselling service provider.

9.2 Except in exceptional circumstances, which are supported by the Counsellor, the Council will normally fund a course of six counselling sessions.

10 TYPES OF SICKNESS ABSENCE

All sickness absences will be monitored on a regular basis. However, sickness absence generally (but not exclusively) falls into two categories and will be dealt with by different procedures.

- Short term intermittent sickness which triggers a Bradford Factor of 200 in a rolling 12 month period, or where a pattern of sickness has emerged, for example, sickness either after or preceding a weekend or a period of planned annual leave.
- Long term absence where sickness exceeds 20 days in one period or a series of related absences within a rolling 12 month period

The above time frames are guidelines and action may be taken at other times where appropriate.

11 PROCEDURE – SHORT TERM INTERMITTENT SICKNESS

11.1 Informal Procedure

Stage 1 – Sickness Absence Meeting

- 11.1.1 An employee's absence will be monitored regularly by Human Resources and the line manager. If Human Resources or the line manager has concerns about an employee's level of sickness absence, they will bring these concerns to the employee's attention.
- 11.1.2 The line manager will explain to the employee during an informal meeting why there is a concern about their level of sickness absence and will discuss with the employee whether there are any underlying issues which are contributing to the level of absence and whether there is any support or adjustments which will help the employee in improving their level of attendance to the required standard. The manager may consider whether a referral to Occupational Health should be arranged. Having taken into account any underlying factors and all information available (including Occupational Health or other expert advice or recommendations), the line manager will advise the employee that there needs to be an improvement in their attendance (such a period would not normally exceed 6 months). The employee will be advised that their attendance will continue to be monitored and unless there is an improvement, formal action may be taken. A Human Resources Advisor may be present at this meeting. Notes of the meeting will be taken and the employee will be asked to sign a copy to confirm that they attended the meeting.

Stage 1 - Review of the Improvement Period

- 11.1.3 During the improvement period, the employee's attendance should be closely monitored. The line manager should discuss all sickness absences with the employee and update the return to work tab on Selima or complete a paper version of the back to work form. If there is cause for concern, the line manager can deal with it at any time before the end of the improvement period.
- 11.1.4 A meeting should be held at the end of the 6 months improvement period to discuss the employee's attendance. Notes of the meeting will be taken and the employee will be asked to sign a copy to confirm that they attended the meeting.
- 11.1.5 If there has been a clear improvement, which meets the expected standards, then the employee should be told that no further action will be required so long

as the improvement is maintained for at least 12 months. Failure to maintain a satisfactory level of attendance will result in further investigation and the formal procedure initiated. In exceptional circumstances a monitoring period may be extended and will only be agreed by consultation with the Head of Department.

- 11.1.6 If the level of attendance has not improved and all absences are not covered by a Doctor's Certificate the employee should be advised and a Stage 2 meeting arranged. (If the employee has been asked to provide Doctor's Certificates for all absences and the Doctor makes a charge then the employee is to obtain a payment receipt pay for the certificate and claim this back through the expenses route)

Stage 2 – Sickness Absence Meeting

- 11.1.7 If not already done so, the employee should attend an appointment with an Occupational Health Advisor for an opinion as to the reasonableness or otherwise of a pattern of sickness absence or any underlying medical conditions and adjustments that are recommended, prior to the meeting.
- 11.1.8 The manager should discuss with the employee, possible reasons for the unsatisfactory attendance, any underlying conditions which would result in short frequent absence and should discuss the outcome of the Occupational Health report.
- 11.1.9 The employee should be given the opportunity to offer an explanation and suggest and agree possible solutions or request support/additional training/reasonable adjustments.
- 11.1.10 The line manager will advise the employee that their attendance needs to improve within the next 3 months otherwise the formal procedure will be applied. The employee's absence will continued to be monitored.
- 11.1.11 The employee should be advised that if their attendance does not improve that this could result in his/her employment being terminated. They must be advised of their right of appeal and that this can be exercised in accordance with the Council's disciplinary policy. Notes of the meeting will be taken and the employee will be asked to sign a copy to confirm that they attended the meeting.

Stage 2 – Review of the Improvement Period

11.1.12 If there has been a clear improvement, which meets the expected standards, then the employee should be told that no further action will be required so long as the improvement is maintained for at least 6 months. Notes of the meeting will be taken and the employee will be asked to sign a copy to confirm that they attended the meeting.

11.1.13 If the level of attendance has not improved the employee should be advised and the formal procedure applied.

11.2 FORMAL ABSENCE HEARING

11.2.1 The meeting should be in accordance with the Disciplinary Procedure. Employees will be given a minimum of 5 working days written notice of a formal meeting. They will be given details of their sickness absence record and told of their right to be accompanied by an trade union representative or work colleague. The employee will be advised of any current formal absence warnings against them and will be provided with a copy of the Absence Management Policy and Procedure.

11.2.2 The meeting must be conducted by a Director, or authorised Head of Service with delegated power to dismiss and accompanied by a representative from Human Resources who has not been involved in the case so far. The line manager must also attend to present the case.

11.2.3 If an employee is unable to attend the meeting, through circumstances outside of their control, the meeting will be re-arranged. If the trade union representative or fellow employee cannot attend the meeting, the employee should suggest an alternative date no later than 5 days after the original date. The 5 day time limit can be extended by mutual agreement. The meeting will only be postponed on 1 occasion.

11.2.4 If the employee fails to attend the re-scheduled meeting, without good reason, the manager can continue with the meeting in the employee's absence.

11.2.5 At the meeting, the line manager will:

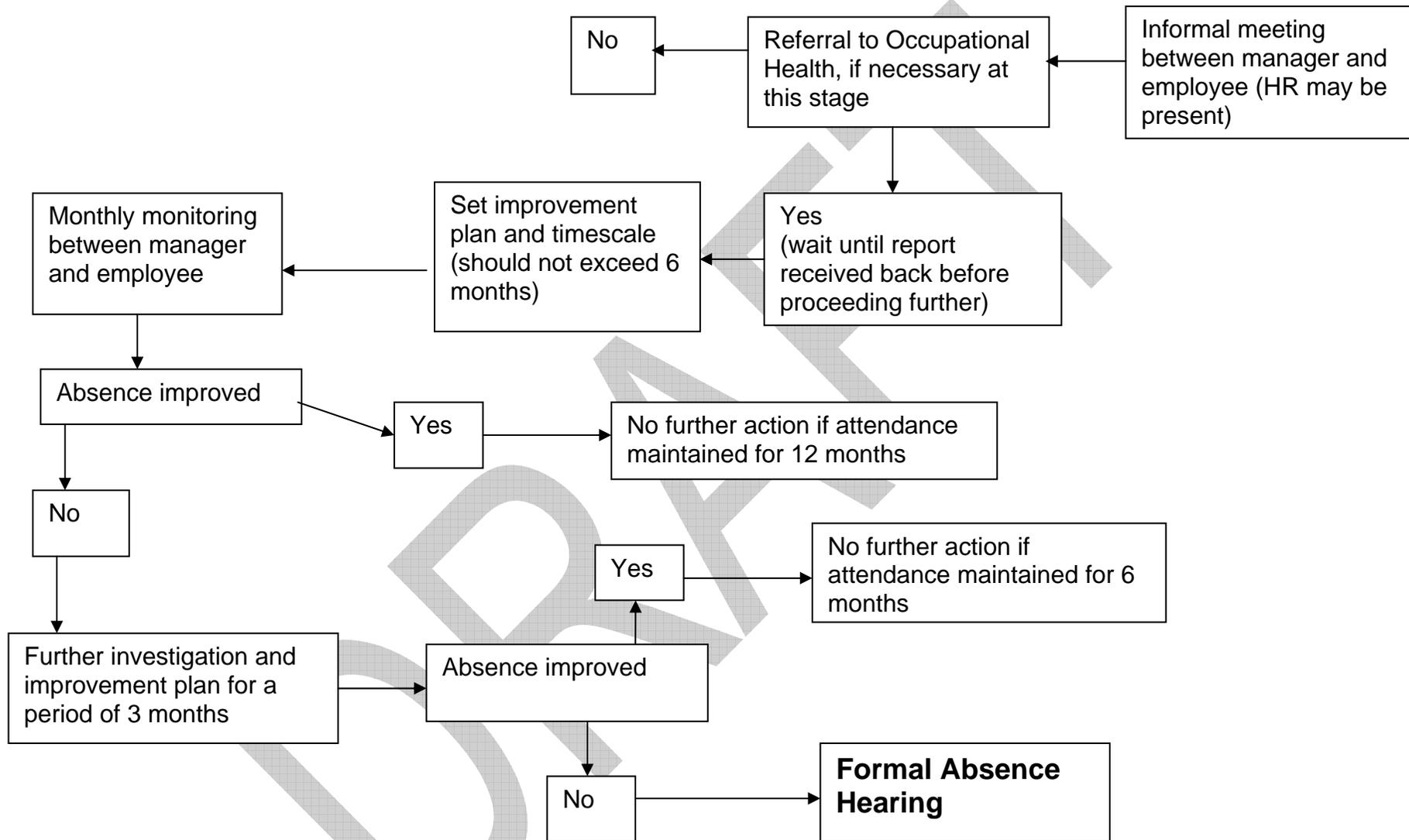
- check and discuss with the Employee that they have been progressively consulted and warned that their absence was a problem
- review the employee's sickness attendance record
- outline the impact of the employee's absence on their role and the team

- review what support/adjustments have been given to the employee to support them in improving their attendance
- review any professional advice given to date and consider whether a (further) referral should be made
- consider any underlying reasons for the poor attendance
- explain why the employee's attendance is considered to be unsatisfactory
- listen to any representations made by the employee and Union or work colleague

11.2.5 The employee will then be given the opportunity to explain the reasons for the absences and outline any additional support or adjustments they believe may help them improve their attendance.

11.2.6 At the formal stage of this procedure (section 11.2) the employee should be advised that they could be dismissed on the grounds of failing to meet his/her contractual obligations due to frequent sickness absence (conduct) and advised of their right of appeal, in accordance with the Council's Disciplinary Procedure.

11.2.7 After hearing the employee's case, an adjournment will be called. Following careful consideration of all the facts and circumstances, the meeting will be re-convened. The Director or authorised Head of Service will wherever possible, inform the employee of their decision and details of any formal action at that time. If no decision can be reached, and further reflection is required, or where further investigation is required, the employee will be informed of the decision in writing within 5 working days wherever possible. This may be delayed further if considerable further investigation or referral for a medical opinion is required.



12.0 FORMAL ACTION

12.1 First Written Warning

12.1.1 If the Director or authorised Head of Service considers that the employee's explanation is unsatisfactory, the employee will be issued with a first written warning.

12.1.2 The employee will be advised that their sickness absence will be monitored against an Improvement Plan. This will specify what improvement is required and provide information about how the employee's attendance will be monitored. The manager will discuss with the employee what further support they think would help them reach the required attendance standard and this will be included in the Improvement Plan.

12.1.3 Employees will be informed of the decision in writing. The letter will include:

- (a) confirmation of the decision;
- (b) details of why the employee's attendance is unsatisfactory and set out the improvement required by the employee to meet the required standards of attendance;
- (c) a warning that failure to achieve the standard of attendance required may lead to a final written warning and possibly dismissal;
- (d) a copy of the Improvement Plan and confirmation of dates it will be reviewed;
- (e) details of what additional support the employee will receive to help them achieve the standards set;
- (f) confirmation of the employee's right of appeal and a copy of the relevant procedure;
- (g) confirmation that the warning will remain on their personal file for a period of 12 months;
- (h) that after the warning has expired, reference to it will be removed from the employee's personal file and disregarded.

12.1.4 The employee's attendance will then continue to be monitored and regularly reviewed against the Improvement Plan. If the employee's attendance improves and meets the required standard, this will be confirmed to the employee, in writing, and no further action will be taken.

12.2 Final Written Warning

12.2.1 Employees will be issued with a final written warning where their attendance has failed to meet the standards required within the specified timescale following the first written warning or, has failed to maintain the attendance standards required within 12 months of the first written warning.

12.2.2 Employees will be informed of the decision in writing. The letter will include:

- (a) confirmation of the decision;
- (b) details of why the employee's attendance is unsatisfactory and set out the improvement required by the employee to meet the required standards of attendance;
- (c) a warning that failure to achieve the standard of attendance required may lead to dismissal;
- (d) a copy of the Improvement Plan and confirmation of dates it will be reviewed;
- (e) details of what additional support the employee will receive to help them achieve the standards set;
- (f) confirmation of the employee's right of appeal and a copy of the relevant procedure;
- (g) confirmation that the warning will remain on their personal file for a period of 18 months;
- (h) that after the warning has expired reference to it will be removed from the employee's personal file and disregarded.

12.2.3 The employee's attendance will then be monitored and regularly reviewed against the Improvement Plan. If the employee's attendance improves and meets the required standard, this will be confirmed to the employee, in writing, and no further action will be taken.

13 DISMISSAL

13.1 Employees may be dismissed:-

- (a) where their attendance has failed to meet the standards required in the timeframe set out in the final written warning;
- (b) if it is unlikely that the employee will be able to satisfactorily perform the duties of the contract;
- (c) the circumstances are serious enough to justify dismissal, and
- (d) the decision to dismiss is within the band of reasonable responses, for a reasonable employer.

The employee should be dismissed on the grounds of failing to meet his/her contractual obligations due to reasons of frequent sickness absence (conduct). This should normally be with notice in accordance with contractual provisions or minimum periods of notice under employment legislation or pay in lieu or notice, even if in practice the employee cannot work the notice period.

13.2 Employees will be informed of the decision in writing. The letter will include:

- (a) confirmation of the decision;
- (b) the reason for the dismissal;
- (c) the date on which the employment contract will terminate;
- (d) details with regard to notice, pay in lieu of notice;
- (e) confirmation of the employee's right of appeal and a copy of the relevant procedure;

14 APPEAL

An employee has the right of appeal against dismissal and the procedure to be followed to initiate an appeal should be in accordance with the Disciplinary Procedure.

15 PROCEDURE – LONG TERM SICKNESS

15.1 Where an employee has been away from work for a period of 20 days or more, or has a related or re-occurring period of sickness absence the manager will review the sickness absence record with HR and decide whether it is appropriate to refer the

employee to Occupational Health and/or a relevant medical expert for a medical assessment.

15.2 The manager may require suitable evidence that the employee is fit to return to work following a long period of absence. This may include information from the employee's doctor or, where appropriate, from Occupational Health or a medical expert.

15.2 This procedure also applies in cases where the manager has serious concerns about an employee's fitness to be in the workplace. In such cases the Council reserves the right to suspend an employee from work on medical grounds pending arrangements for a medical assessment to be undertaken.

15.3 Medical Assessment

15.3.1 The purpose of gaining Occupational Health/relevant medical expert advice will be to provide information on:

- Whether the employee is fit to continue in the workplace and to undertake the duties of their role
- Whether a return to the full range of duties is likely, and an estimated timescale
- Whether there is an underlying serious medical condition and if so, could it result in further periods of absence
- To gain any recommendations regarding the employees return to work, including any support or assistance that may be necessary, such as phased return or restriction on duties and the likely timescale involved
- Whether the employee is permanently unable to continue in the current role, but that redeployment to another role could be considered
- Whether the employee is permanently unable to continue in the current role and that ill health retirement/termination of employment is necessary
- Whether the employee comes within the definition of 'disabled' under the Equality Act 2010 and whether alternative employment and/or reasonable adjustments should be considered and if so what and how to implement

15.3.2 The employee's manager and a representative from HR will arrange to meet with the employee, and their representative, to outline the reasons for making a referral to Occupational Health or to a relevant medical expert and to gain completion of relevant medical consent forms.

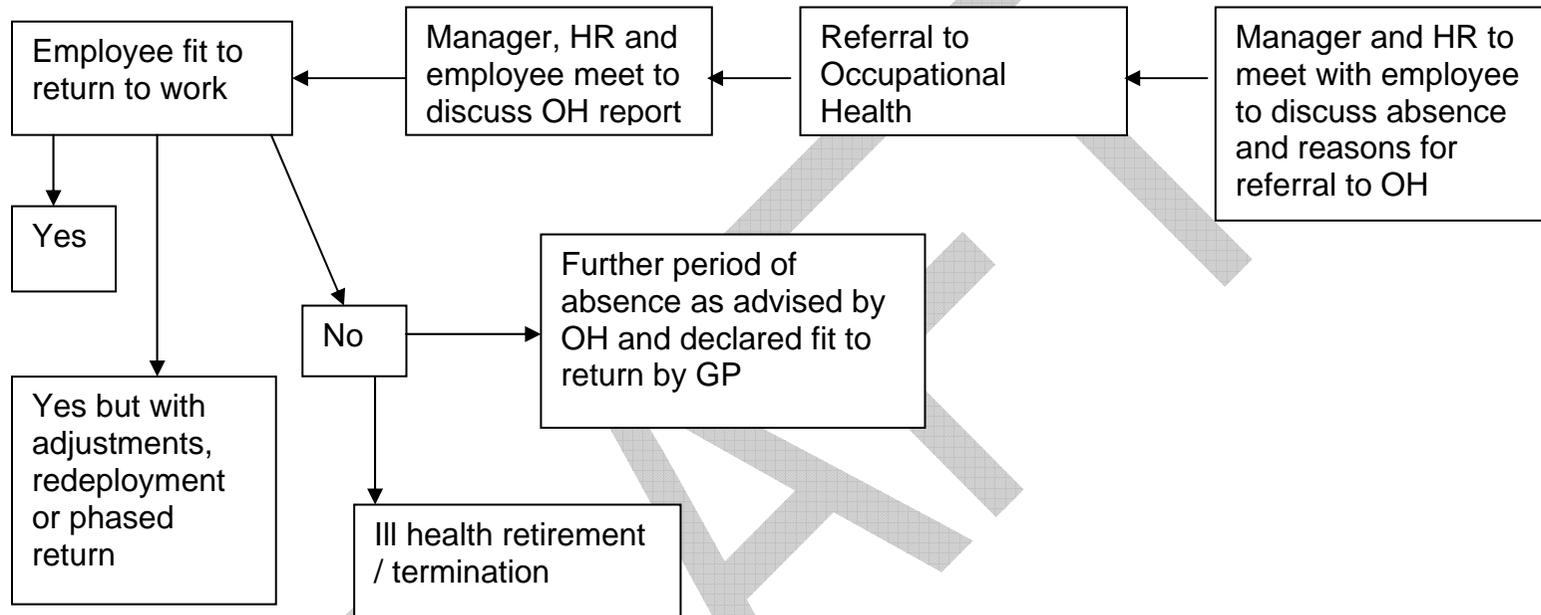
15.3.3 HR will contact Occupational Health or a relevant medical expert and will confirm the reason for the referral, and provide details of the employee's sickness absence record and job description. HR will also confirm the arrangements to the employee.

15.4 Outcome of Medical Assessment

15.4.1 Following the referral the manager and HR representative will make arrangements to meet with the employee, and their representative, to discuss the outcome of the medical referral.

15.4.2 The possible outcomes of a medical referral are:

- The employee is able to return to the workplace and is fit to continue to undertake their normal duties and whether any adjustments/restrictions should be implemented
- Further expert medical evidence is required
- Return to normal duties within a reasonable timescale, which may include a phased return which should not ordinarily exceed 3 months
- Return to current role, but with some adjustments or redeployment into an alternative role
- Ill Health Retirement/Termination will apply if the employee is certified as permanently unfit to carry out the duties of their post. If the employee is a member of the Local Government Pension Scheme and meets the qualifying criteria for eligibility for ill health retirement pension this will be progressed. If the employee is not a member of the pension scheme or the employee does not agree to ill health retirement an absence hearing will be arranged as outlined in paragraph 4.2 and the employee should be advised that they may be dismissed on grounds of incapability due to reasons of ill health. If the employee contests the advice provided by Occupational Health then another medical opinion will be sought from an independent medical advisor who is acceptable to both parties.



16.0 APPEALS PROCEDURE

16.1 A right of appeal exists at every stage of the procedure to the next level of management and, in the event of dismissal, to the Appeals and Disputes Committee of the Council.

17 REVISION

17.1 This procedure will be reviewed and if required, revised regularly by the Council in consultation with the recognised trade union, taking into account changes to legislation ACAS guidelines and best practice. Version control will be detailed on the front cover.

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Appendix 1

Sickness Reporting Procedure

First Day of Absence

If the employee is unable to attend work due to sickness the employee must telephone their line manager as soon as is reasonably practicable, but in any case within an hour of their normal starting time, on the first day of absence. If an employee is due to work a night shift or late shift they should telephone in as soon as possible so that cover can be arranged. The employee should state briefly the reason for their absence and, give an indication of the likely duration of their illness. The employee must keep the line-manager informed of the date at which they are likely to return to work. If the employee is unable to return to work on the date indicated they should inform the manager and give a further indication of the likely return date. If the direct line manager is unavailable the employee should speak with another designated manager. E-mails or Text Messages are **not** acceptable as a means of communicating absences. If the employee becomes unwell during the course of the working day and goes home, the hours worked should be recorded on Selima and a self-certification form should be completed for the part of the day that the employee is unable to work.

Fourth Calendar Day of Absence (including any non-working day)

The employee must again telephone their line manager (or on the next working day thereafter) to confirm their continued ill health and, if possible, a likely return date. If the employee is unable to return to work on the date indicated they should inform the manager and give a further indication of the likely return date.

On the first day of your return to work you must report to your supervisor/manager and if the absence has lasted for one day or more, complete a self-certification form stating the reason for the absence. The line manager will then conduct a return to work interview with the employee. Self-Certification forms are located on the HR intranet.

Eighth Calendar Day of Absence (including any non-working day)

The employee must see their GP to obtain a medical certificate which should be submitted immediately to their line manager, covering any period from the 8th day of absence until the date specified on the doctor's certificate. From this point onwards medical certificates must be

submitted in good time to cover any further periods of absence. You must not return until you are declared fit to do so by your doctor or occupational health.

In reporting sickness absence it is important to understand the relevance of the "non-working" day, particularly for those who do not work the standard week (i.e. Monday to Friday). For example, a part timer who normally works Monday to Wednesday each week and who rings in sick on the Monday will be expected to ring in on the Thursday (4th day of absence), regardless of the fact that this is a non-working day. If the sickness continues, the 8th day of absence will be the following Monday, i.e. the eighth calendar day, when a medical certificate will be required. If the employee returns to work on the 8th day and it is her/his first day of fitness, only the normal working days (in this case Monday to Wednesday) will be recorded as absences against the sickness record.

Examples:-

An employee would be expected to telephone on their first day of absence (Monday). They would then be expected to telephone in again on Thursday, regardless of the fact that Thursday would be their day off. The length of absence would be recorded as 3 days.

| Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
|---------------|----------------|------------------|-----------------|---------------|-----------------|---------------|
| Early shift | Early shift | Night shift | Day off | Day off | Day off | Early shift |
| Sick | Sick | Sick | Sick | Not sick | Not sick | |

An employee telephones in on their first day of absence (Monday). They telephone in on the 4th day to notify you that they are still sick. They will need to telephone in on the Sunday and Monday as they are working days. If they return to work on the Tuesday they should have seen their doctor on the Monday to obtain a doctor's note. A doctor's note must be provided on the 8th calendar day, whether or not the absence was during non working days.

| Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
|---------------|----------------|------------------|-----------------|---------------|-----------------|---------------|
| Early shift | Early shift | Night shift | Day off | Day off | Day off | Early shift |
| Sick | Sick | Sick | Sick | Sick | Sick | Sick |
| Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
| Early shift | Early shift | Night shift | Day off | Day off | Day off | Early shift |
| Sick | | | | | | |

Sickness Whilst on Annual Leave

Annual leave may be re-imbursed if absent due to a certificated absence. Please contact HR to discuss.

Failure to comply with the laid down self-certification regulations may lead to disciplinary action and salary payment being withheld.

Appendix 2

Return to Work Interview

It is important that employees are interviewed on their return to work after **all** instances of sickness absence. This will provide the opportunity for the line manager to explore the reasons for the absence and whether there are issues inside or outside of work which have contributed to their sickness absence and on which they may need support and help. There may be also be health and safety implications.

It also demonstrates that the line manager supports the employee on a personal level and provides an opportunity to check that the individual really is fit to carry out their full range of duties or whether they need some special consideration for a short while to bring the employee up to date with events that have happened during their absence.

Remember to keep in mind the following key points:

- ask open questions
- listen generously and do not jump to conclusions
- make a note of reasons given for absence or lateness
- make a note of any concerns that you may wish to follow up

The return to work interview must be recorded on Selima. If this is not possible due to access reasons a paper version must be completed and a copy sent to Human Resources.

