



HEALTH CAPACITY PROCEDURE

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1. Overview

This procedure sets out the framework for how the council will manage and support employees who are not capable of meeting their full contractual obligations for health-related reasons. This procedure applies to all health conditions causing both impact on work ability/performance, as well as sickness absence.

1.1 Who is bound by this procedure?

This procedure will apply to all Council employees.

2 Purpose

The purpose of this procedure is to provide a sympathetic, equitable and consistent process for dealing with an employee whose attendance or work performance is affected by ill health in order to ensure as far as possible that they are given the necessary support to enable them to fulfil their contractual obligations.

It is intended to encourage regular and appropriate communication between an employee and their manager ensuring that, where an employee's attendance or work performance are affected by ill health, appropriate steps are taken to ascertain the nature of that illness, and that no decision is ordinarily taken concerning their employment without consultation with them.

The procedure is also designed to forewarn an employee of the possible consequences in the event that they fail to meet attendance/workability/capability targets.

If the council as employer has reason to believe that someone is claiming to be sick, when this may not be the case (e.g. where a pattern occurs,) the disciplinary procedure will be applied.

3. Definitions

3.1 Line Manager

The responsibility for managing sickness absence is clearly defined in each business unit and may lie with the Team Leader, Supervisor or Manager of an area, who are referred to as the Line Manager in this procedure.

3.2 Trigger

A trigger is defined as something that initiates a stage in the procedure.

3.3 Target

A target is level of absence which is considered by the Council to be acceptable and during which no formal action would ordinarily be taken. Targets are expressed as both the number of occurrences of sickness absence and as a total number of days/shifts absent due to sickness during a defined period.

3.4 Target Start Date

Targets are normally set from the date of the Health Capability meeting, or if the meeting takes place more than 4 weeks after the return to work the target start date will be backdated to 4 weeks from the date of the return to work.

3.5 Rolling 12 months

Any sickness absence in 12 months preceding the first date of an absence will be considered as part of the standard 12 month rolling period. Any absence that has already been included in the health capability meeting will be excluded from this.

3.6 Exceptional Circumstances

Pregnancy related sickness absence will not be counted towards absence targets.

4. Responsibilities

4.1 Responsibility of the Employee

An employee should make every attempt to keep in good health and make sure that they advise their Line Manager if they have any concerns about their health, if they believe that it is, or has the potential, to affect their work ability/performance/attendance.

Additionally:

- An employee who is prevented by reason of illness or injury attending work must use the appropriate absence reporting procedure.
- Where the date of return is not known, the employee should keep their Line Manager informed on a regular basis, no less frequently than weekly but more often if requested
- The employee is required to complete a self-certification form and to submit “Fit Note(s)” to their Line Manager
- If an employee is sick before or during their annual holiday they must provide a Fit Note and attend a satisfactory return to work interview for the period of sickness to be re-credited. This does not apply to bank holidays. Self-certificated absence during booked holiday will not re-credited.
- If you are absent directly before or after a bank holiday without permission and fail to produce a Fit Note, contractual pay may be stopped for the period including the bank holiday, subject always to the Working Time Regulations.
- The employee must try and comply with any recommended actions to help them make an improvement in their attendance.
- The employee should attend Occupational Health as requested to assist in determining appropriate measures to be taken.
- The employee is encouraged to inform their Line Manager or a Council representative if their absence is caused by an underlying condition.
- The Council reserves the right to withhold sick pay for failure to comply with the sickness absence reporting procedures.

4.2 Responsibility of the Line Manager

Line Manager should provide reasonable support for an employee who is experiencing difficult health issues. For example, they should be:

- Encouraging the employee to keep in good health.
- Identifying any health problems that may be affecting the employees’ attendance and/or work ability.
- Monitoring absence levels and work ability.
- Supporting the employee to improve their health and attendance.
- Initiating action as set out in this procedure if that support is not improving the employee’s attendance or work ability.

If an employee is absent from work for four calendar weeks, or earlier if there is a likelihood of a four-week absence, the Line Manager should advise the Council’s Personnel Committee- or in the absence of such committee the council, who will consider whether contact with Occupational Health is appropriate.

At any time during a period of absence, either a Line Manager or Council representative is entitled to telephone an employee at home. In certain circumstances, for example, long term sickness, the Line Manager, occupational health and/or Council representative may also conduct home visits.

5. Process

It is important to understand that the triggers and targets are not an entitlement to sickness absence, and individuals may be called into account for any level of absence.

5.1 Return to Work Interviews

Employees are required to complete the self-certification form in all instances of sickness absence, and for all absences of eight calendar days or more the employee should submit Fit Note(s). This applies to all sickness absences, short term or long term.

Return to work interviews will be conducted by the relevant Line Manager when the employee returns to work following any period of sickness absence.

The purpose of the Return to Work Interview is to:

- Ensure the employee is fit to return to work, and any appropriate support and adjustments are out in place.
- Establish the reason for sickness absence.
- To raise any concerns about the employees' health related attendance/work performance
- If necessary, Line Managers should take the opportunity to discuss with the employee the possible consequences of further sickness absences if their sickness absences are approaching any trigger point.
- The Line Manager should record the discussion, which will be put in the employee's personnel file.
- The Line Manager should update the employee on developments in the department during their absence which they need to know about.

In some circumstances it may also be appropriate to discuss:

- Possible referral to Occupational Health
- Support or adjustments to duties

5.2 Formal Meeting

Following an investigation into an employee's absence, they will be invited to a review meeting with their Line Manager, and where appropriate a Personnel Committee/council representative.

Where an employee is invited to a formal meeting, the following will apply:

- They will be sent a letter inviting them to a meeting, and setting out their attendance record, any other relevant information, and be informed of the possible outcomes of the meeting (which will depend on the stage of the procedure that is being applied).
- The letter will inform the employee that they have the right to accompanied by a co-worker or a certified trade union rep.
- They will be given reasonable time to consider any information that is given to them.
- Any formal meeting may be adjourned and re-convened at an appropriate time if further medical or other information is required to enable the Council to make a proper decision.
- Formal meetings will ordinarily be attended by a member of the Personnel Committee/council.

The purpose of any meeting held under the Health Capability Procedure will be to:

- To ensure the employee is aware of their absence levels, and the impact of these on the Council.
- Ensure that the employee has an understanding of the Health Capability procedure.
- Discuss the reasons for the health-related absence.
- Ensure that the Council has sufficient information to make a proper decision.
- Determine if and what any appropriate support or adjustments need to be made.

At a Stage 3 meeting the following points should also be considered:

- Determine if the employee's absence has reached unsustainable levels.
- Determine the likelihood of the employee being able to fulfil their contractual obligations within a reasonable period of time.
- Determine if dismissal is appropriate.

Where appropriate, medical or other relevant advice and/or information will be sought, including referral to occupational health. Where appropriate the meeting maybe adjourned or followed up at later stage if further information it required.

6. Stages of the Procedure

The Council may, at its discretion, start the procedure at any stage where, in its view, an employee has an unacceptable level or pattern of attendance or is otherwise not capable of meeting their full contractual obligations.

The Health Capability Procedure has following 4 stages:

1. Informal Health Capability Meeting
2. Formal stage 1 – Stage 1 Caution
3. Formal Stage 2 – Stage 2 Caution
4. Formal Stage 3 – Dismissal

In the case of significant long-term, or potential long-term absence or restrictions, the Council may start the procedure at any level.

6.1 Informal Health Capability Meeting

Trigger

The Informal Health Capability Meeting will be triggered by 1 of the following:

- Standard targets are breached – For any worker this is less than 3 occurrences or 10 working days in a rolling 12month period
- An employee has been on long term absence of 4 (or more) weeks.
- An employee has been on restricted duties for a period of 12 weeks.

Outcome

Based on the information discussed at the meeting, the Line Manager will issue an outcome, which may include, but is not limited to one or more of the following:

- Set an ***Informal Health Capability Meeting standard target***. In terms of this target, 1 occurrence of sickness absence in the next 6 months will trigger the Formal Stage 1 process **or** 2 occurrences or 7 days' absence in the next 12 months will trigger the Formal Stage 1 process (this varies depending on the shift pattern being worked)
- Set an appropriate non-standard target based on the employee's specific circumstances where this is deemed necessary. Non-standard targets can be issued in consultation with Personnel Committee/council. This will ordinarily only be done where it has been determined that the individual has a disability or disability related condition.
- Medical suspension pending further investigation.
- Permanent or temporary redeployment to a suitable role if available and appropriate.
- Reasonable adjustments to the employee's role where practicable and appropriate.
- Investigation into potential ill health retirement.

6.2 Formal Stage 1 – Stage 1 Caution

Trigger

A formal Stage 1 meeting is ordinarily triggered by the breach of a target set following an Informal Health Capability meeting.

Outcome

Based on the information discussed at the meeting, the Line Manager will issue an outcome in writing, which may include, but is not limited to one or more of the following:

- Issue a Formal Stage 1 Caution
- Set a Formal Stage 1 standard target of less than 3 occurrences or 10 days in a 12 month period.

- Set an appropriate non-standard target based on the employee's specific circumstances where this is deemed necessary. Non-standard targets can only be issued in consultation with Personnel Committee/council. This will ordinarily only be done where it has been determined that the individual has a disability or disability related condition.
- Medical suspension pending further investigation.
- Permanent or temporary redeployment to a suitable role if available and appropriate.
- Reasonable adjustments to the employee's role where practicable and appropriate.
- Investigation into potential ill health retirement.

6.3 Formal Stage 2 – Stage 2 Caution

Trigger

A Formal Stage 2 meeting is ordinarily triggered by the breach of a target set following a Formal Stage meeting.

Outcome

Based on the information discussed at the meeting, the Line Manager will issue an outcome in writing, which may include, but is not limited to 1 or more of the following.

- Issue a Formal Stage Caution
- Set a Formal Stage 2 standard target of less than 2 occurrences or 7 days in the 12month period (this varies depending on the shift pattern being worked)
- Set an appropriate non-standard target based on the employee's specific circumstances where this is deemed necessary. Non-standard targets can only be issued in consultation with Personnel Committee/council. This will ordinarily only be done where it has been determined that the individual has a disability or disability related condition.
- Medical suspension pending further investigation.
- Permanent or temporary redeployment to a suitable role if available and appropriate.
- Reasonable adjustments to the employee's role where practicable and appropriate.
- Investigation into potential ill health retirement.
- Re-issue a Formal Stage 1 Caution if appropriate following consultation with Personnel Committee/council.

6.4 Formal Stage 3 – Dismissal

Trigger

A Formal Stage 3 meeting is ordinarily triggered by the breach of a target set following a Formal Stage 2 meeting.

Outcome

Based on the information discussed at the meeting, the Line Manager will issue an outcome in writing, which may include, but is not limited to one of the following:

- Dismissal with notice.
- Set an appropriate non-standard target based on the employee's specific circumstances where this is deemed necessary. Non-standard targets can only be issued in consultation with Personnel Committee. This will ordinarily only be done where it has been determined that the individual has a disability or disability related condition.
- Medical suspension pending further investigation.
- Permanent or temporary redeployment to a suitable role if available and appropriate.
- Reasonable adjustments to the employee's role where practicable and appropriate.
- Investigation into potential ill health retirement.
- Re-issue a Formal Stage 2 Caution if appropriate following consultation with Personnel Committee/council.
- Any other appropriate outcome

6.5 Appeal

An employee can appeal against a decision or outcome given to them at any formal stage of the Health Capability Procedure. Any appeal should be put in writing and sent to the Line Manager within 5 working days of the formal written outcome being given. The appeal letter must contain, in brief, the specific reasons for the grounds of appeal.

6.6 Redeployment, Phased Return to Work & Restricted Duties

An employee who is permanently redeployed will ordinarily have their salaries and shift premiums, or other related payments, adjusted accordingly.

An employee on a phased return to work, or on temporary restricted duties will be paid in accordance with their employment contract, which states relevant sick pay benefits. For the avoidance of doubt, the first day of sickness is the trigger for sick pay benefit, and intermittent periods of absence relating to the same health condition will be treated as accrued benefits paid, save that disability conditions will be considered as appropriate. For longer periods, the employee may be paid only for the hours worked, or duties done.