

**THE EXECUTIVE**

**Tuesday, 25 October 2005**

**Agenda Item 5. Human Resources Policies and Procedures (Pages 1 - 51)**

Attached are Appendices A and B to the above report.

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**APPENDIX A**

**PEOPLE MATTER**  
The Organisational Development Plan



**MANAGING ATTENDANCE**

**- SICKNESS ABSENCE POLICY  
and PROCEDURE -**



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# **MANAGING ATTENDANCE - POLICY STATEMENT**

## **1. INTRODUCTION**

The Council aims to deliver an efficient, cost effective and high quality service to all its service users and believes that the participation and commitment of every member of staff is vital in order to achieve an optimum level of service. Good attendance is an essential factor in the achievement of this objective.

The Council is committed to the care and welfare of its members of staff. It recognises that most absence is genuine and wishes to avoid creating anxiety about the consequences of staying off work when ill by introducing a transparent policy to ensure consistent and fair treatment for all staff.

This policy and procedure provides managers with a structured framework that will enable them to properly manage the difficult and sensitive area of staff sickness absence levels. The aim is to help people to return to work.

### **Why Manage Attendance?**

A proactive approach to managing sickness has successfully reduced sickness levels in a range of organisations.

High levels of sickness absence are costly and disruptive. They often mean:

- Poor quality public services
- Higher levels of stress, low morale and extra work for colleagues
- Lost production, missed work targets and delays
- Lower productivity, higher costs and disruption to flow of work
- Extra wage/salary costs to cover sickness absence
- A loss of competitive edge over other service providers
- Failure to meet Best Value Indicators
- Poor reputation for the Council

### **Sickness Absence – A Best Value Performance Indicator**

The Council is committed to provide a best value public service to the community. Sickness absence management is a Best Value Performance Indicator. The Council recognises that sickness absence can only be effectively managed if employees are treated fairly and consistently.

### **Legal Context**

The Framework for managing sickness absence takes into consideration the provisions of the Employment Rights Act 1996, the Employment Relations Act 1999, the Employment Act 2002, the Disability Discrimination Act the Race Relations (Amendment Act) 2000, the Employment Act 2002 (Dispute Resolution) Regulations 2004 and the ACAS Code of Practice on Disciplinary and Grievance Procedures.

## 2. GENERAL

This Policy applies to all staff directly employed by the Council and is commended to schools as “Best Practice”.

Line managers are directly responsible for managing attendance within their department or area of service, with advice and support from the Human Resources service and/or the Occupational Health Service (OHS), as appropriate. Departmental Management Teams (DMT's) and the Human Resources service will monitor the application of the procedure to ensure that it is applied fairly and consistently.

Staff who are absent due to ill-health will be approached in a sensitive and caring manner with due regard to their needs for confidentiality. Discussions should be conducted in a sympathetic and supportive way and staff advised, in advance, that they may have a representative present at stages 2, 3 and 4.

Wherever possible, assistance will be offered to staff to regain full health when recommended by the Occupational Health Service as well as support and counselling. Staff are required to notify their manager of any medical conditions that may affect them at work and the Council will try and make reasonable adjustments. Reasonable adjustments will be made for disabled staff as defined by the Disability Discrimination Act, 1995 (DDA) in accordance with the duties placed on the Council under the Act. See Appendix I for further guidance.

Where staff are unable to continue in their current post for reasons relating to ill-health, redeployment will be considered in line with the Council's redeployment provisions. When all reasonable alternative options have been exhausted, termination of service on the grounds of incapability and/or levels of absence that would adversely affect the ability of the section to deliver its services will be considered, as a last resort.

## 3. APPLICATION OF THE PROCEDURE - PRINCIPLES

### Confidentiality

If, for reasons of confidentiality or sensitivity, staff do not feel able to discuss details of their sickness absence with their line manager, they may speak to an alternative manager from the same group, the Human Resources service, the Occupational Health and Welfare service or a trade union representative and ask them to raise the issue on their behalf; this should be an exception and not normal practice. It is emphasised that the principal responsibility for managing the processes **remains with the member of staff's line manager**.

### Self Certification and Medical Certificates

Staff must complete a Return to Work (Self Certificate) Form for each period of absence and hand this in directly to their line manager on the day they return to duty (see Appendix II). Staff must also provide a doctor's certificate if the sickness absence extends into an 8<sup>th</sup> calendar day or if they are admitted into hospital.

Managers are required to record all absences in respect of the staff for whom they are responsible on the Weekly Staff Absence Return Form (See Appendix III). The completed

Return to Work Form(s) should be attached to the Weekly Return, along with appropriate medical certificates and returned to the Human Resources service who will advise Payroll.

## **Pregnancy Related Sickness Absence**

Sickness absences related specifically to pregnancy are excluded for the purposes of monitoring under this Policy and Procedure.

## **Maintaining Contact with Staff on Sickness Absence**

Managers and staff are required to keep in regular contact whilst on sickness absence. The purpose of this is to enable managers to:

- be kept updated as to the nature and likely period of absence
- make suitable arrangements to cover the absence
- discuss with the member of staff what support may be available
- keep the member of staff informed of any changes at the workplace

The frequency and nature of the contact, (whether by telephone, in writing or through meetings), may vary according to the needs of the case. Home visits will also be arranged, where appropriate, with the consent of the individual through the Human Resources service who will arrange the visit and a HR representative will accompany the manager.

## **Working Whilst on Sick Leave**

Staff must not undertake any private paid or unpaid work whilst they are absent from duty due to sickness without prior management approval. Working whilst on sick leave or conduct prejudicial to the member of staff's recovery or return to duty is a disciplinary matter.

## **Medical Referrals/Role of Occupational Health**

The line manager or HR representative may refer staff to the Occupational Health Service at any time during the procedure to establish their medical situation.

In cases where a member of staff submits a medical statement recording absence from work for reasons of stress (including anxiety and depression) they will be referred to Occupational Health after 2 week's continuous absence.

In cases of long-term sickness absence, staff will be referred to the Occupational Health service after 4 weeks' continuous absence, depending on the circumstances of the case.

The line manager or HR representative must inform the person in writing prior to the date of appointment that they are being referred, the reason(s) why and their right to be supported at the meeting and given a copy of the referral letter.

The member of staff's consent will be sought if the Occupational Health Service needs to contact their doctor or an independent medical practitioner. The Occupational Health Service will investigate the member of staff's medical situation and advise the line manager about their fitness to undertake the duties of the post **on the information available to them.**

Staff will be notified, in writing, of the Occupational Health Service's report and that if they do not give consent for the additional information to be given to the line manager, decisions will be taken on the available information.

## **Representation**

Staff have the right to be accompanied/represented by a trade union representative or a work colleague at management meetings under Stages 2, 3 and 4 of the procedure. The member of staff is responsible for arranging the attendance of their representative.

Every reasonable effort should be made to ensure staff have the opportunity to attend in person to state their case at any formal meeting(s). If the individual is not fit enough to attend, or chooses not attend the meeting, they may opt to be represented in their absence by their chosen representative and/or to submit a written case statement.

Having had the opportunity to attend a meeting, if staff do not attend meetings or fail to arrange for representation in their absence or to submit a written case statement, decisions will be taken on the available information.

## **Record Keeping - Data Protection Requirements**

Staff should be advised in writing of the outcome at each stage of the process. The written outcome should include any relevant considerations or discussions that have been noted in relation to DDA requirements.

A copy of the Return to Work Form and the letter(s) from the meetings will be given to the member of staff. Staff should sign to say they have seen and received a copy of the letter, not necessarily that they agree with its contents. They may make any appropriate comments on the letter before signing and a copy will be sent to the Human Resources service.

A record will be taken of all formal meetings including details of absences, the member of staff's response, any support agreed and targets for improvement (if they disagree with the notes of meetings, they can ask for their version to be attached to the minutes). Notes will be kept for 12 months after the completion of the last review period or the date of the meeting, whichever is later.

## **Notification and Other Procedural Requirements**

A failure to adhere to the notification and other procedural requirements outlined in this Policy may result in the member of staff losing their sick pay entitlement and/or could result in action being taken under the Council's Disciplinary Procedure. This will include any failure to attend appointments with the Council's Occupational Health Service without good reason.

Staff may, as an outcome of a formal meeting under the Short-Term Sickness Absence procedures, be required to submit a doctor's certificate from the 1st day of any subsequent absence over the following 12 months. In these circumstances it is the member of staff's responsibility to ensure medical certificates are provided and to meet any costs incurred, which will be reimbursed on the provision of a receipt.



## **4. ATTENDANCE STANDARDS AND MONITORING**

Setting standards is important to ensure consistency and fairness in dealing with any absence due to ill-health.

Attendance targets will be set for the Council as a whole, taking into account the Government's Best Value Performance Indicators. Targets within and between departments may vary to take into account factors relevant to the department, service needs and local factors. Information on levels of absence will be shared, if required with the trade unions and, where possible, jointly monitored in order to analyse and highlight any possible trends, problems and solutions.

Managers are responsible for recording and monitoring staff absences and the consequent costs of cover. The Human Resources service will establish an appropriate system to record absences notified by managers on staff returns and provide regular reports. The Human Resources service will present these reports or a summary of them if required, to Members, the Corporate Management Team, Departmental Management Teams and Heads of Service at regular intervals.

Line managers will monitor absence regularly at both individual and team level. Individual cases of sickness absence will be discussed at one-to-one/supervision meetings and the line manager will take appropriate action in line with this Procedure when the member of staff's levels of absence reaches the "triggers" detailed below: -

- 3 separate occasions of sickness, **or**
  - Sickness absence totalling 7 days or more; **or**
  - A pattern of absence that causes concern;
- within a rolling 12 month period.

### **Managing Short-Term/Long-Term Sickness Absence**

There are separate procedures for managing short-term sickness absences (less than 4 calendar weeks) and long-term sickness absences (continuous absence of 4 calendar weeks or more or linked absences relating to an underlying medical condition).

When dealing with a combination of short and long-term sickness absence and the member of staff is back at work; action will normally be taken under the Short-Term Absence procedure, however, each case should be carefully considered, depending on the individual circumstances.

If, when dealing with absence under the Short-Term Absence procedure, the member of staff goes on long-term sickness absence, further action may follow the Long-Term Absence procedure, depending on the circumstances of the case.

Cases of absence cannot be dealt with under both Short-Term and Long-Term Absence procedures at the same time.

## Industrial Injuries

A period of absence due to Industrial Injury shall not be recorded against a member of staff's sick leave entitlements

1. If the member of staff, either full or part time, cannot work because they have been injured, assaulted or contracted a disease at work, they may apply to have that injury classified as an industrial injury, by discussing this with their line manager.
2. For the injury or disease to be classified as an industrial injury, the manager must be satisfied that:
  - a) the accident happened whilst the member of staff was doing their job;
  - b) the accident was specifically caused by the member of staff's duties; and
  - c) the member of staff suffered an injury or caught a disease as a direct result of that accident;
  - d) the member of staff cannot work as a direct result of the injury suffered or disease contracted in that accident; and
  - e) the accident was not due to and/or the injury made worse by the member of staff's own negligence or misconduct.

In cases where there is uncertainty as to whether an injury or accident should be classified as an industrial injury, the Health and Safety Adviser will be able to advise the manager.

For further information on industrial injuries, refer to the Corporate Accident Reporting procedure.

## Advice

Any queries or dispute as to the interpretation of the Procedure shall be referred to the Human Resources service in the first instance. **If in doubt, please take advice.**

## MANAGING ATTENDANCE - DEFINITIONS

For the purposes of these provisions, the following definitions shall apply:

**Best Value Performance Indicator** means the number of working days/shifts lost to sickness absence per full-time equivalent member of staff.

**Director** means the Director or Head of Service with the authority to chair a hearing and to issue any sanctions e.g. issue warnings. If the Director or Head of Service has previously acted as line manager or Reviewing Officer then the appeal will be to another senior officer.

**Human Resources Representative** means a representative from the Human Resources service. A human resources representative will normally attend all meetings during Stages 2-4 to provide advice about Council policies and procedures.

**Line manager** means the manager, immediate supervisor or any other officer permanently or temporarily responsible for communicating with, and directing the activities of members of staff in the workplace.

**Reviewing Officer** means the Director or Head of Service with authority to chair a hearing and to issue sanctions at Stage 3 of these procedures.

**Review Period** is in the Stages 1 and 2 of the Procedure and will be the next 3 month period. (Managers need to take this into account when arranging meetings with staff, especially during the formal stages of the procedure.)

**Rolling periods** refer to the 12 month period preceding the date of absence e.g. if absent on 24 March 2003, the 12 month rolling period will cover absences from 25 March 2002 to 24 March 2003 inclusive.

**Sickness absence** is absence due to illness/injury on a working day or shift as defined under the member of staff's contract. For part-time staff, absence due to illness/injury on any day or shift for which they are contracted to work, irrespective of the number of hours, will count as 1 day's sickness absence.

- **Short-term sickness absence** means intermittent absences. There may also be instances where a number of short-term absences are the result of a medical condition/ impairment defined as a disability under the DDA.
- **Long-term sickness absence** is continuous absence of 4 calendar weeks duration or more or intermittent absences relating to an underlying medical condition.

When staff attend work but go home sick during the day. If the member of staff has worked less than 1/2 of their normal working day, their sickness will be recorded as a whole day's sickness absence. If the member of staff has worked over 1/2 of their normal working day, this will be recorded as a half day's sickness absence.

# **SICKNESS ABSENCE PROCEDURE**

## **1. REPORTING ABSENCES AND MEDICAL CERTIFICATES**

- 1.1 Staff unable to attend work must notify their line manager as close as possible to the start of their shift or designated starting time, on the 1st day of absence. They should speak to their line manager, or other designated officer, in person.
- 1.2 The member of staff should indicate the nature of the illness and the likely duration of the absence. They must keep their line manager informed of any developments concerning the likely duration of their absence on the first and fourth day (as a minimum) to update on progress, and advise of the anticipated date of return to work.
- 1.3 On the 8th consecutive calendar day of sickness absence a doctor's certificate is required and should be posted to the line manager immediately (if not delivered in person). A certificate is also required should you be hospitalised. The certificate should indicate the nature of the illness, the dates covered by the certificate and the date of the signature of the doctor. A qualified medical practitioner must certify all absence of 8 calendar days or more.
- 1.4 If no notification is received by the 8th day, the line manager should try and contact the member of staff directly, (by telephone, letter or home visit). If no notification or doctor's certificate is received by the 11th day, (allowing 3 days for postal delivery), the member of staff's pay may be stopped (once they have been formally notified in writing) until they provide the required certificate(s) to cover the period of absence. The line manager will consult with the Human Resources service who will write to the member of staff and notify them accordingly.
- 1.5 Staff who fall sick during a period of annual leave will be regarded as being sick from the date of a doctor's certificate. Leave will not be reinstated unless a doctor's certificate is produced, and provided they contact their line manager on the first day of sickness, to advise of illness.

Please note: medical certificates issued outside of the EU do not count towards the payment of SSP.

## **2. RETURN TO WORK PROCESS**

- 2.1 Staff must complete a "Return to Work" (Self-Certificate) form for each period of sickness absence and hand the completed form to their line manager on the day they return to duty. A final medical certificate to confirm fitness to return to work must also be obtained before returning to work if the absence has exceeded 14 working days.
- 2.2 A return to work discussion will normally take place on the day of return when the completed form is submitted. In exceptional circumstances, where the line manager is not available on the return to work day or shift, local arrangements should be agreed to ensure that the discussion is held within the next 5 working days. This discussion will also be used to monitor the member of staff's sickness absence in accordance with Stage 1 of the Managing Short-Term Sickness procedure.

- 2.3 Where members of staff are returning from a period of long-term absence or absence in relation to a DDA condition, the line manager should review the type of work that individual does, **prior to their return**. In this discussion, managers should consider options to support the member of staff's return to work by discussing any additional needs that they may have, whether their working hours need to be addressed, if they need any specialist equipment to aid them in their everyday work tasks, etc.

Line managers are required to consider reasonable adjustments to the job where staff have a medical condition or impairment within the meaning of the DDA. They need to be alert in any discussion with staff to the possibility of a DDA condition and if in doubt, should seek advice from the Human Resources service. A record should be kept of any adjustments agreed and the arrangements confirmed in writing to the member of staff prior to their return to duty. (A Return to Work Agreement is attached at Appendix IV).

- 2.4 Where there is any doubt about the member of staff's fitness to resume their contractual duties, the line manager should seek advice from the Human Resources services and/or the Occupational Health Service and discuss the options with the individual.

### **3. MANAGING SHORT-TERM SICKNESS ABSENCE**

- 3.1 The purpose of any meeting is not to determine whether the absence is legitimate but whether the frequency/duration has reached the "trigger levels" and to explore options to improve future attendance.

- 3.2 Where sickness absence may be due to a medical condition or impairment defined under the Disability Discrimination Act, line managers must refer to the guidance outlined in Appendix I, "Reasonable adjustments under the DDA".

- 3.3. Sickness absence will be monitored on a monthly basis with statistics provided for the Chief Executive and Departmental Management Teams.

- 3.4. Where staff reach the "trigger levels" (i.e. 3 separate occasions of sickness, or sickness absence totalling 7 days or more, or a pattern of absence that causes concern, within a rolling 12 month period), the line manager will deal with these in accordance with the following procedure.

- 3.5. There are four stages to the procedure, including a right of appeal against dismissal.

#### **3.6 Stage 1**

##### **3.6.1 Absence Review Discussion**

- (i) Once the manager is aware that a member of staff has reached the sickness trigger points they will arrange a private and confidential discussion with the member of staff as soon as possible, to examine the reasons for the nature and pattern of absence. This should normally take place in the return to work discussion. The discussion should:

- Confirm the dates and periods of sickness absence in the previous 12 month period and ensure that records are accurate and up to date.

- Review their sickness absence and explore any underlying causes. (As this is an informal stage in the process, it is important to emphasise the supportive nature of the discussion, ensure that they understand they were missed and that this is not a disciplinary meeting).
  - Ensure staff are provided with the opportunity to explain the circumstances of their case.
  - Explain and ensure that they understand the effects of any period of sickness absence on the work of the team, group, department and the ability of the Council to meet its service delivery objectives.
  - Consider options to help reduce his or her level of absence. These include referral to the Occupational Health and Welfare service or perhaps modification to work on a temporary/permanent basis.
  - Review the type of work that they do including exploring the option of reasonable adjustments for a defined period. (If the absence relates to a DDA condition, advice must first be sought from Human Resources).
  - Explain why the absence levels are causing concern and are unacceptable and that formal action under the procedure is likely to result if they continue to breach the defined trigger levels.
- (ii) Attendance will be monitored for a period of 3 months. The line manager will confirm the outcome in writing, including: -
- The period of absence(s).
  - Date the discussion took place.
  - Member of staff's reason(s) for absence.
  - Line Manager's comments.
  - Action plan, including monitoring period details.
  - That failure to meet the improvement targets is likely to lead to formal action under the Procedure.

### 3.6.2 Review Period

- (i) The line manager must closely monitor the member of staff's attendance during the review period.
- (ii) If, at the end of the review period there is an improvement in the member of staff's level of absence below the agreed attendance levels, no further action will be taken.

The individual should be notified in writing that no further action will be taken this time but if their levels of absence fail to reach the required attendance levels in the following 12 months, the line manager may proceed directly to Stage 2.

- (iii) If at the end of the review period, the member of staff has had a further:
- 3 days sickness absence **and/or**
  - A pattern of absence emerges

they should be notified in writing that this will now proceed to a Stage 2 Absence Management Interview.

## **3.7 Stage 2**

### **3.7.1 Absence Management Interview**

- (i) Staff will be given a minimum of 5 working days written notice of the Absence Management Interview. The letter will state the date, time and place of the Interview, the reason for the meeting and the individual's right to be accompanied/represented by a trade union representative or work colleague of their choice.
- (ii) The purpose of the Interview is to:
- Confirm the dates and periods of sickness absence in the previous 12 month period and ensure that records are accurate and up to date.
  - Further review their sickness absence and explore any underlying causes. It is important to emphasise the supportive nature of the discussion, ensure that they understand they were missed.
  - Ensure staff are provided with the opportunity to explain the circumstances of the case.
  - Explain and ensure that they understand the effects of any period of sickness absence on the work of the team, group, department and the ability of the Council to meet its service delivery objectives.
  - Consider further options to help reduce his or her level of absence. These include referral to the Occupational Health and Welfare service or perhaps modification to work on a temporary/permanent basis.
  - Review further the type of work that they do including exploring the option of reasonable adjustments for a defined period. (If the absence relates to a DDA condition, advice must first be sought from Human Resources).
  - Explain why the absence levels are causing concern and are unacceptable and that formal action and dismissal under the procedure is likely to result if they continue to breach the defined trigger levels.
- (iii) Attendance will be monitored for a further period of 3 months. The line manager will confirm the outcome in writing, including: -
- The period of absence(s).
  - Date the interview took place.
  - Member of staff's reason(s) for absence.
  - Line Manager's comments.
  - Action plan, including monitoring period details.
  - That failure to meet the improvement targets is likely to result in formal action and dismissal under the procedure.

- (iv) If, after the Absence Management Interview it is confirmed that the individual has not reached the revised attendance levels detailed in 3.6.2 (ii), they will be given a further opportunity to improve their attendance normally over the following 3 month period. They should also be informed that failure to achieve and maintain the necessary improvement may lead to dismissal.
- (v) Staff may, as an outcome of a formal meeting under the Short-Term Sickness absence procedures, be required to submit a doctor's certificate from the first day of any subsequent absence over the following 12 months.

It is the member of staff's responsibility to ensure medical certificates are provided and to meet any costs incurred, which will be reimbursed on the provision of a receipt.

- (vi) The outcome will be confirmed in writing to the member of staff within 5 working days of the Interview and should outline any measures agreed to assist them to improve their attendance, as well as the consequences of failing to do so (as detailed in 3.7.1(iv)).

The member of staff will be required to sign that they have received a copy of the letter.

### **3.7.2 Review Period**

- (i) The line manager must closely monitor the member of staff's attendance during the review period.
- (ii) If at the end of the Review Period, there is an improvement in the individual's attendance levels below the targets set no further action will be taken **as long as the improvement is maintained.**

The individual should be notified in writing that no further action will be taken this time but if their levels of absence again fail to reach the required attendance levels in the following 12 months, the line manager may proceed directly to Stage 3.

- (iii) If at any time during the Review Period, the member of staff's absence reaches the revised "trigger levels" and/or they fail to meet the targets set for improvement, the line manager will either: -
  - proceed to Stage 3 **or**;
  - give them a further opportunity over the following 3 month Review Period (in exceptional circumstances where they are satisfied the member of staff is making a genuine effort to improve their attendance) following the process in 3.6.2.
- (iv) In the event that a pattern emerges where a member of staff's attendance appears to remain satisfactory during the review period, only to lapse soon after, this should be taken into account at any subsequent formal meetings.



- (v) The outcome of the Interview will be confirmed in writing to the member of staff within 5 working days of the meeting. Where there is to be a further review, the letter will include an outline of any measures offered to assist the member of staff to reduce their level of absence. They will also be informed that failure to achieve and maintain the necessary improvement may lead to dismissal.
- (vi) Where the absence is to be dealt with at Stage 3, the line manager must refer the member of staff to the Occupational Health Service for up to date advice as to whether there are any underlying medical reasons or DDA conditions. This information must be available prior to meeting with the member of staff under Stage 3.

### **3.8 Stage 3**

#### **3.8.1 Absence Review Interview**

- (i) Prior to the Absence Review Interview, the line manager will prepare a report that includes:
- The level and effect of the sickness absence on the particular service area.
  - Action taken to date, including previous interview dates, records from the interview and any action taken to support the member of staff.
  - All available medical evidence.
  - The member of staff's employment record and other relevant information.

This will form the basis of the management case at the meeting.

- (ii) The member of staff will be given 5 working days notice in writing of the Absence Review Interview. The letter will include:
- The date, time and place of the Interview;
  - The reasons for the meeting, including a copy of the line manager's report and the individual's absence record;
  - The name of the Reviewing Officer who will consider the case.  
Note: The Reviewing Officer will be a Director or Head of Service with the authority to Chair a Hearing and to issue sanctions.
  - The member of staff's right to be accompanied/represented by a trade union representative or a work colleague of their choice;
  - That dismissal may be considered
  - A copy of the Procedure

#### **3.8.2 Procedure to be followed at an Absence Review Interview**

- (i) The Reviewing Officer, accompanied by a Human Resources representative, will state the purpose of the meeting i.e.: -
- To confirm the dates and periods of sickness absence since the trigger levels were first reached and ensure records are accurate and up to date.

- To review the member of staff's sickness absence record and explore any underlying causes, ensuring that the Reviewing Officer is fully informed of the medical position.
  - To provide an opportunity for the member of staff to explain the circumstances of their case. The Reviewing Officer will consider the member of staff's explanation, any mitigating circumstances, the available medical evidence, employment record and any other relevant information.
  - To review any previous efforts to assist the member of staff return to work or maintain a satisfactory level of attendance.
  - To review the type of work that the member of staff does.
  - For the Reviewing Officer to satisfy themselves that all the appropriate procedures have been followed and any proposed action is reasonable in all the circumstances e.g. the member of staff has previously been advised that there is a risk to his or her employment and referred to the Occupational Health Service at least once during the process.
- (ii) The line manager will present the information contained in their sickness absence report.
- (iii) The member of staff and/or their representative will have the opportunity to respond to the information provided by the line manager and present any relevant information.
- (iv) The Reviewing Officer may ask questions of the line manager and member of staff and seek advice from appropriate sources prior to reaching their decision.
- (v) The Reviewing Officer may consider an adjournment of up to 5 working days to consider the information presented or to seek further information and reconvene as soon as possible. (Where further information is provided both sides will have the opportunity to comment).
- (vi) **Outcome.** After considering all the facts, the Reviewing Officer may:
1. **Take no further action**
  2. **Issue a written warning**
  3. **Issue a final written warning**
  4. **Terminate the employment (with notice)**

The outcome will be confirmed in writing to the member of staff within 5 working days of the meeting.

### **3.9 Stage 4 Appeal**

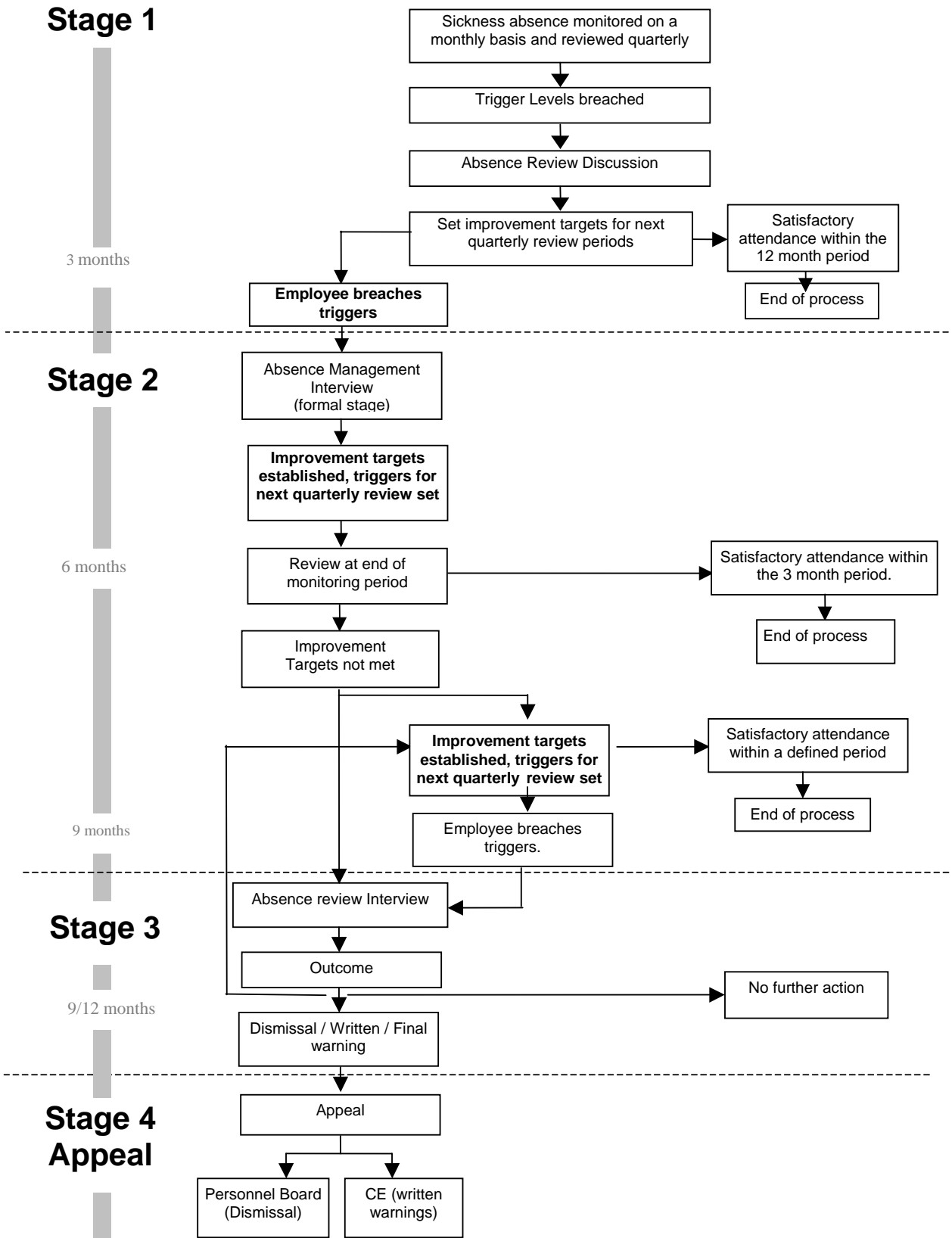
3.9.1 Staff will have a right of appeal against:

- dismissal
- written warning

3.9.2 To appeal against dismissal the member of staff should write to the Head of Human Resources within 10 working days of the date of the letter detailing the outcome of the Interview and stating the grounds for the appeal. A Personnel Board will be arranged to hear the appeal;

To appeal against a written warning the member of staff should write to the Chief Executive within 10 working days of the date of the letter detailing the outcome of the Interview, stating the grounds for the appeal. An officer panel will be arranged to hear the appeal.

# Short-Term Sickness Absence Procedure - Flowchart



## **4. MANAGING LONG-TERM SICKNESS ABSENCE**

- 4.1 Long-term sickness absence is defined as a continuous period of absence lasting 4 calendar weeks or more or linked absences relating to an underlying medical condition.
- 4.2 Where the reason for absence may be due to a medical condition or impairment defined under the Disability Discrimination Act (DDA), line managers must refer to the guidance outlined in Appendix I, "Reasonable adjustments under the DDA". This may include looking into redeployment.
- 4.3 The line manager must maintain regular contact with staff on long-term sick leave either by telephone, letter and/or home visit, taking into account the member of staff's preference, (as outlined in page 5).
- 4.4 There will be a referral to the Occupational Health Service as soon as reasonably practical after 4 weeks continuous absence to confirm whether there is a medical condition or impairment defined under the DDA (or earlier if there are concerns as to the reasons/timescales detailed on the medical certificate). Staff should also be offered the opportunity to contact the Welfare service.
- 4.5 If at any stage the Occupational Health Service advises that the member of staff is permanently incapable of carrying out the duties of their contractual position by reason of a medical condition or impairment the Council's Redeployment Procedure or Ill-Health Retirement Procedures will be applied.

### **4.6 Stage 1**

#### **4.6.1 Meeting**

- (i) Where there is no evidence of an early return to work i.e. within 4 calendar weeks of the receipt of the medical report from the Occupational Health Service, the line manager, in consultation with the Human Resources service, must set up a Review Meeting.
- (ii) The member of staff must be allowed the opportunity to attend the Review Meeting if they wish and given a minimum of 5 working days written notice of the meeting. The letter should include an explanation of the purpose of the meeting and the member of staff's right to be accompanied/represented by a trade union representative or work colleague of their choice.
- (iii) At the member of staff's request (should this be appropriate) the Review Meeting may take place at their home or any other mutually agreed venue. Alternatively, the member of staff may choose to be represented in their absence at the Review Meeting and/or to submit a written representation.
- (iv) The objectives of the Review Meeting will be to:
- Review the member of staff's sickness absence record and any available medical evidence.

- Provide an opportunity for the member of staff to explain the circumstances of their period of long-term absence or to bring a DDA condition to the attention of the line manager.
  - Discuss whether the long-term absence is due to progressive conditions where disability is likely to become more substantial over time – things like cancer, HIV, multiple sclerosis and muscular dystrophy. The Disability Discrimination Act covers these things from the moment there is a noticeable effect on normal day to day activities.
  - To consider options to support the member of staff's return to work. Each case will be considered on its merits with particular regard to responsibilities defined under the DDA, including the need to take pro-active steps to be fully informed of the medical condition / impairment.
  - To advise the member of staff that if persistent absence continues there will be risks to continued employment.
- (v) If the outcome of the Review Meeting is that there is no evidence of an early return to work i.e. within 4 calendar weeks, the line manager will advise the member of staff that a Second Review Meeting will be arranged in accordance with the circumstances of the case but no later than 3 months from the date of the meeting.
- (vi) The outcome of the Review Meeting will be confirmed in writing to the member of staff within 5 working days of the meeting. The letter will include an outline of any measures offered to assist them to return to work.

#### **4.6.2 Review Period**

- (i) During the review period the line manager must maintain regular contact with the member of staff.
- (ii) Where staff return to work they will be informed that no further action shall be taken as long as satisfactory attendance levels are maintained.

### **4.7 Stage 2**

#### **4.7.1 Review Meeting**

- (i) If sickness absence continues for the duration of the Review period and there is no evidence of an early return to work i.e. within 4 calendar weeks, the line manager, in consultation with the Human Resources service, will set up a Second Review meeting.
- (ii) The procedure will be the same as for the Stage 1 Review Meeting,
- (iii) If the outcome of the Stage 2 Review meeting is that there is no evidence of an early return to work, i.e. within 4 calendar weeks, the line manager will advise the member of staff that a Stage 3 Review Meeting will be arranged in accordance with the circumstances of the case but no later than 3 months from the date of the meeting.

- (iv) The outcome of the Stage 2 Review Meeting will be confirmed in writing to the member of staff within 5 working days of the meeting. The letter will include an outline of any measures offered to assist them to return to work. They should also be informed that continuous absence may place their employment in jeopardy.

#### **4.7.2 Review Period**

- (i) During the review period the line manager must maintain regular contact with the member of staff.
- (ii) Where staff return to work they will be informed that no further action shall be taken as long as satisfactory attendance levels are maintained.
- (iii) If sickness absence continues for the duration of the Review Period and there is no evidence of an early return to work i.e. within 4 calendar weeks, the line manager, in consultation with Human Resources, will set up a Stage 3 Review Interview.
- (iv) At the same time, the line manager will refer the member of staff to the Occupational Health Service for up to date advice as to any underlying medical condition/ impairment etc.

### **4.8 Stage 3**

#### **4.8.1 Review Interview**

- (i) Prior to the Review Interview, the line manager will prepare a report that includes:
- The level and effect of the absence on the particular service area.
  - Action taken to date, including previous meeting dates, records from the meeting(s), the individual's absence record and any action taken to support the member of staff.
  - All available medical evidence.
  - The member of staff's employment record and other relevant information.

This will form the basis of the management case at the meeting

- (ii) The member of staff will be given 5 working days notice in writing of the Review Interview. The letter will include:
- The date, time and place of the Interview.
  - The reasons for the meeting, including a copy of the line manager's report.
  - The name of the Reviewing Officer who will consider the case.  
Note: The Reviewing Officer will be a Director or Head of Service with the authority to chair a Hearing and to issue sanctions.
  - The member of staff's right to be accompanied/represented by a trade union representative or a work colleague of their choice.
  - That dismissal may be considered.
  - A copy of the Procedure.



#### **4.8.2 Procedure to be followed at the Review Interview**

- (i) The Reviewing Officer, accompanied by a Human Resources representative, will state the purpose of the meeting i.e.: -
- To confirm the dates of the absence and to ensure that records are up to date and accurate.
  - To review the member of staff's absence record ensuring that the Reviewing Officer is fully informed of the current medical position.
  - To provide an opportunity for the member of staff to explain the circumstances of their long-term absence or to bring a DDA condition to the attention of the Reviewing Officer. The Reviewing Officer will consider the member of staff's explanation, any mitigating circumstances, all available medical evidence, their employment record and any other relevant information.
  - To review the type of work that the member of staff does including the impact of absence on service delivery and on colleagues. Each case will be considered on its merits.
  - To review any previous efforts to assist the member of staff to return to work.
  - To consider the availability of alternative work if appropriate. For DDA conditions the Reviewing Officer has a positive duty to look at what changes can be made to the workplace or the way work is done. The search for alternative work has to embrace the possibility of reasonable adjustments making a particular alternative job suitable for the disabled person (see Appendix I).
  - For the Reviewing Officer to satisfy themselves that all the appropriate procedures have been followed and that any proposed action is reasonable in all the circumstances e.g. the member of staff has previously been advised that there is a risk to his or her employment and have been referred to the Occupational Health Service at least once during the process.
- (ii) The line manager will present the information contained in their absence report.
- (iii) The member of staff and/or their representative will have the opportunity to respond to the information provided by the line manager and present any relevant information.
- (iv) The Reviewing Officer may ask questions of the line manager and member of staff and seek advice from appropriate sources prior to reaching their decision.
- (v) The Reviewing Officer may consider an adjournment of up to 5 working days to consider the information presented or to seek further information, reconvening as soon as possible. Where further information is provided both sides will have the opportunity to comment.

(vi) **Outcome.** After taking all the facts and circumstances of the case into account the Reviewing Officer may:

1. **Terminate employment** for a reason relating to the incapability on the grounds of ill-health of the member of staff to do the work that they are employed to do. Dismissal will only be considered when all reasonable alternative options have been exhausted. Dismissal will be with contractual notice from the date of the confirmation letter. For DDA cases consideration should be given to extending the defined notice period, for example to 6 months, to facilitate a longer period to seek appropriate redeployment opportunities.

Prior to any action towards capability dismissal/retirement, due regard must be given to the obligations of the Council under the Disability Discrimination Act 1995. The line manager has a positive duty to look at what changes or reasonable adjustments can be made to the workplace or to the way work is done, which would overcome the effects of the impairment, and make any changes which are reasonable. (See Appendix I).

2. **Adjourn the proceedings** to seek independent medical advice (which will be arranged via the Occupational Health Service) or pending a further review period, depending in the medical prognosis. Any such review will be set to reflect the medical advice and prognosis.

(vii) The outcome will be confirmed in writing to the member of staff within 5 working days of the meeting.

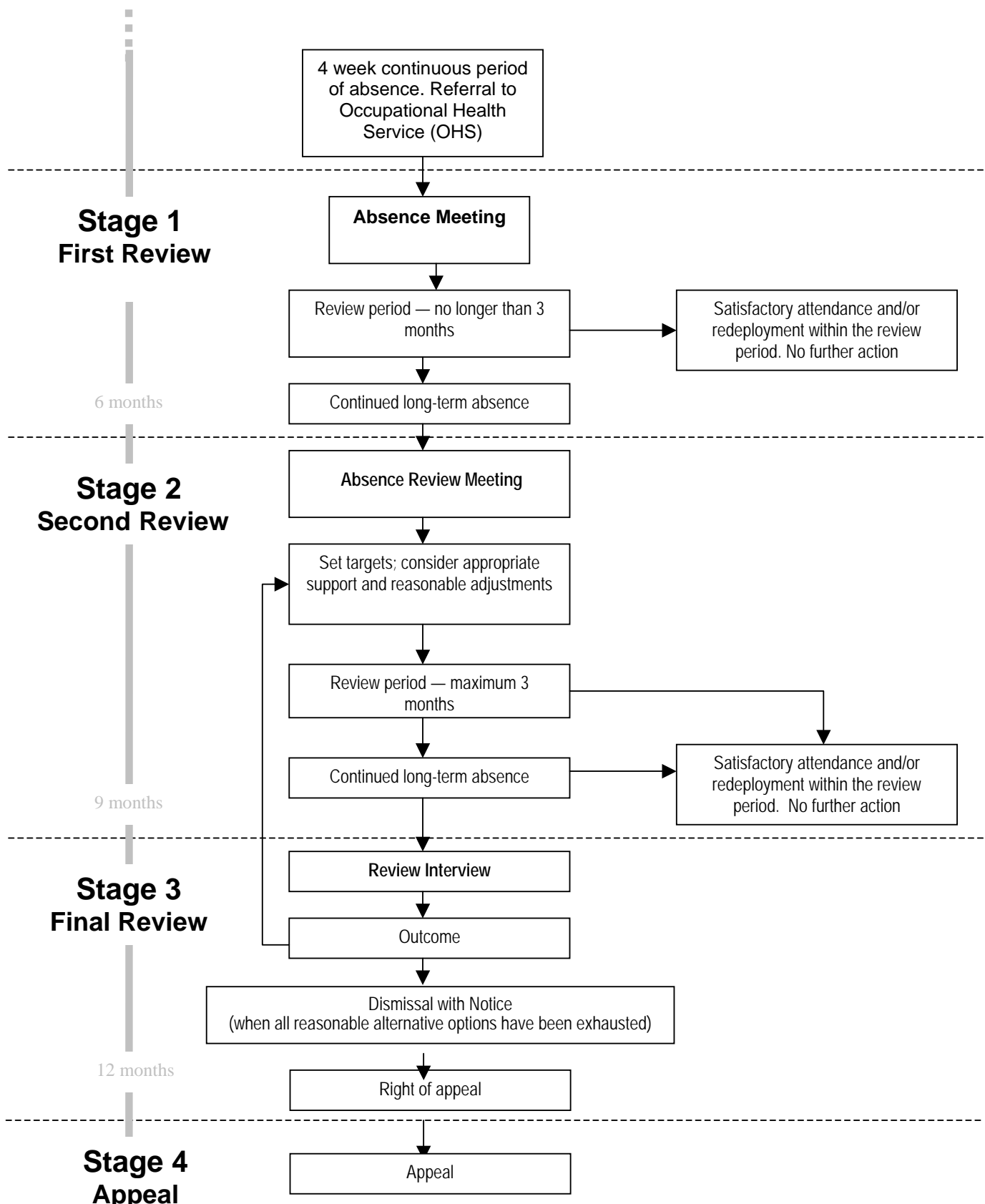
(viii) Staff will be offered the opportunity to be considered for redeployment during their notice period in accordance with the Redeployment Procedure. During this time, every effort will be made to secure alternative work, usually involving lighter duties.

## **4.9 Stage 4**

### **4.9.1 Appeal**

(i) Staff will have a right of appeal against dismissal and if they wish to do so, they should write to the Head of Human Resources within 10 working days of the date of the letter detailing the outcome of the Interview and stating their grounds for the appeal. A Personnel Board will be arranged to hear the appeal.

# Long-Term Sickness Absence Procedure - Flowchart



## **REASONABLE AJUSTMENTS UNDER THE DISABILITY DISCRIMINATION ACT 1995 (“DDA”)**

This Schedule should be read with the DDA guidelines set out in the Council’s Guide to Employing Disabled People.

### **Principles**

- A person has a disability within the meaning of the DDA if he or she has a physical or mental impairment, which has a substantial and long-term adverse effect on his or her ability to carry out normal day to day activities. Long-term means that it has lasted at least 12 months, it is likely to last at least 12 months or it is likely to last for the rest of the life of that person.
- The DDA has made it unlawful for the Council to treat a disabled person less favourably because of their disability unless there is a good reason for doing so i.e. any such treatment has to be justified.
- Dismissal, including compulsory early retirement, of a disabled person for a reason relating to their disability would need to be justified by good reason and the reason(s) for it would have to be one(s) which could not be removed by any reasonable adjustment(s). The meaning of “justified” is considered in the Guidance Notes produced, to be read with this Policy. In summary, it would be justifiable to terminate the employment of a member of staff whose disability makes it impossible for him/her to any longer perform the main functions of their job if an adjustment, (such as a move to a vacant post elsewhere in the Council), is not practicable or otherwise not reasonable for the Council to have to make.
- If the Council (as represented by its managers) knows or could reasonably be expected to know that a person has a disability, it is under a positive duty to consider what reasonable adjustments could be made to the workplace or the way the work is done to resolve any difficulties the disabled person faces in doing their existing job.
- As the Council can be reasonably expected to know that a person has a disability, line managers need to consider and be sensitive to the possibility that a member of staff’s period of sickness may be caused by a disability. This is particularly true in respect of possible psychological conditions including depression, which may result in periods of absence (combined possibly with poor work as a result of lack of concentration, etc.), and which a member of staff may be reluctant to disclose or discuss with their manager. Such situations need to be approached with particular sensitivity.
- The nature of the reasonable adjustments which have to be considered will depend on the circumstances of each case. Where no reasonable adjustments would overcome a particular disability to enable the disabled person to continue with their existing job, reasonable adjustments can include the transfer of the member of staff to a suitable alternative post. The duty to make reasonable adjustments is a continuing one and thus applies to alternative posts as well. Reasonable adjustments can also include provisions made to assist a gradual return to full time hours or, for example, a change to part-time hours. Additional training may be necessary to enable the member of staff to take on the new post.

## Process

1. Where a member of staff has breached the short/long-term absence triggers as a result of any informal or formal meetings and the line manager has reason to believe that any or all of the periods of absence may be due to a DDA condition, they must be referred to the OHS. The existence of such a condition may in any event be revealed by simple and sympathetic investigation with the member of staff about the reason for their absence. The line manager, in conjunction with the Human Resource service, should seek advice from the OHS as to the member of staff's ability to do their work and any limitations on their capabilities that may need to be taken into account in considering what reasonable adjustments to the individual's work it may be practicable to make.
2. If it is confirmed (by the OHS or otherwise) that there is a DDA condition, the line manager should ensure that records of any subsequent periods of absence indicate whether absence is due to a DDA condition or for any other reason.
3. Where periods of absence are due to a DDA condition the line manager has a positive duty, as part of the informal and formal meeting process, to consider what reasonable adjustments can be made to the member of staff's workplace or to the work they are doing, which would overcome these effects. The member of staff should be consulted as to their needs. The manager should ensure that any considerations, which are given to reasonable adjustments, including details of any consultations with the member of staff, are properly noted. The reasons for making any particular adjustments or the reasons why any particular adjustments are not considered practicable must also be noted, whether such considerations take place within meetings, with the member of staff or afterwards. Copies of the notes of the contents of meetings should be supplied to the member of staff for their agreement or otherwise. They should be advised that if they disagree with the accuracy of the note they should set out their disagreement in writing and confirm how/what they say the note should read to accurately reflect the contents of the meeting.
4. Where periods of absence are unrelated to a DDA condition, the normal procedures set out in this policy will apply.
5. Where periods of absence are due to a mixture of DDA and non DDA conditions, the appropriate action should be taken in relation to the DDA condition, as outlined in this Appendix. Absences relating to DDA conditions will be dealt with under the "Procedures for Dealing with Long-Term Sickness." Non DDA conditions will be dealt with under the relevant Short or Long-Term procedures.
6. Prior to any consideration of dismissal, attention must have been given to the obligations under the DDA towards the disabled member of staff. In particular, it is only after consideration has been given to make reasonable adjustments to the member of staff's existing job and there are no alternative jobs available (which again should be considered in the light of any reasonable adjustments which may be made to them to make them suitable to the disabled member of staff) that termination can properly take place. The decision to dismiss will have to be justified by good reasons. It may be that if consideration of reasonable adjustments or the consideration of alternative work is taking longer than the time limits set down under the Long-Term Absence procedure for a contract review, the time limit should be varied to allow for such detailed consideration to have taken place (this would be seen as a reasonable adjustment). Equally, where a disabled member of staff meets the requirements for ill-health early retirement or

redeployment the dismissal would have to be justified and the reason for it would have to be one, which could not be removed by any adjustment.

7. When all reasonable adjustments and alternative options have been explored termination of employment on grounds of incapability or 'some other substantial reason' will be considered. Before any decision to dismiss can be taken advice from both legal and human resources must be sought.
8. Termination of employment will be with contractual notice. In addition, consideration should be given to extending the defined notice period, for example to 6 months, to facilitate a longer period to seek appropriate redeployment opportunities.
9. Similarly, where a member of staff meets the criteria for ill-health early retirement or ill-health redeployment, due regard must be given to the obligations under the DDA.



### Return to Work (Self Certificate) Form

**To be completed on a member of staff's first day back at work following sickness absence**

Name \_\_\_\_\_ Job title: \_\_\_\_\_

Payroll No. \_\_\_\_\_ Section: \_\_\_\_\_

Location \_\_\_\_\_

Nature of sickness: \_\_\_\_\_

First day of absence: \_\_\_\_\_ Last day of absence: \_\_\_\_\_

Length of absence (days): \_\_\_\_\_ Number of days absent in last 12 months: \_\_\_\_\_

Member of staff's comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Signed (member of staff): \_\_\_\_\_ Date: \_\_\_\_\_

If this absence has exceeded 7 days, please attach the note obtained from your GP

Once this form has been completed, please pass it to your  
line manager

-----  
Managers Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Signed (manager): \_\_\_\_\_ Date \_\_\_\_\_

Please attach this to absence return.

WEEKLY STAFF ABSENCE RETURN FORM

London Borough of Barking and Dagenham		<b>Staff Absence Return</b>																							
Department:																									
Absence Return Form (To be submitted weekly)							<b>Week Ending</b>																		
<b>Establishment:</b>																									
		<b>Signed</b>					Authorised signature																		
Please complete the pink section for staff returning to duty. The blue section for staff who are absent. Please ensure that the appropriate section is completed in full as any details entered incorrectly will affect salary payments.																									
Please enter in the box below any employees who were Still Absent on last week's return who have returned to duty this week.																									
Employee Number <small>Must be entered unless new employee then enter "new employee" to avoid the form being returned</small>	Employee Name	Column	Please enter the last date of absence in the end of absence			Reason																			
		<b>END OF ABSENCE</b>	Total number of working days absent during this period of sickness/absence <small>For all employees</small>																						
							<b>Returned to Duty</b>																		
							<b>Returned to Duty</b>																		
							<b>Returned to Duty</b>																		
							<b>Returned to Duty</b>																		
Please enter below the names of any employees who are absent or still absent this week.																									
Employee Number <small>Must be entered unless new employee then enter "new employee" to avoid the form being returned</small>	Employee Name	Please indicate 'SA' for still absent if the employee has not returned to work this week or the last date of absence if the employee has returned. <small>Please remember to indicate when a member of staff returns to duty if they were shown as Still Absent on last 12 weeks absence return by completing the Pink Section above</small>		For P/T employees only Please state number of hours normally worked on day/s of absence if absent for less than a full week		For all employees who are absent for less than a full day please state number of hours absent ie 3 hours	For all employees Total number of working days absent during this period of sickness/absence	Please indicate if Medically Certified or Self Certified	*Absence Reason <small>(Reason for absence must be entered do not leave blank) *Please see list of attached values for absence reason For absence reasons other than sickness please state if this should be paid or unpaid</small>																
		<b>START OF ABSENCE</b> <small>This should be the first day of absence</small>	<b>END OF ABSENCE</b>	M	T	W	Th	F	S	S															







Confidential

## Return to Work (following long-term sickness) Agreement

This Agreement formalises the arrangements agreed at the return to work meeting held on ... (date).... between ...(member of staff) ... and ...(manager) ...

The following were present at the meeting:

... (list names)...

1. **Discussion on how the member of staff feels and if relevant, what led to the absence and whether that was work related.**  
(Staff are required to notify their manager of any medical conditions that may affect them at work)

2. **Phased return to work (where a phased return to work has been recommended by Occupational Health).**

**i) Hours of work (detail any agreed variation in hours/times of duty).**

It was agreed that you will work ... (details hours/times)... until ... (date of review) ... when the situation will be reviewed

**ii) Responsibilities (detail any agreed variation in duties/responsibilities).**

It was agreed that you will ... (details) ...

**iii) Any other changes (detail any other conditions/restrictions e.g. as to the work location, dealing with the public, carrying out visits or physical work).**

It was agreed that you will ... (details) ...

**Note: Unless otherwise agreed, in conjunction with the Human Resources service, any changes are temporary and will be for a limited period only.**

**3. General issues relating to absence/job role (detail any other issues e.g. any changes affecting their job whilst they have been away, new procedures etc).**

**4. Support (detail support arrangements and who is responsible for investigating, arranging and/or providing this).**

It was agreed that ... (detail support arrangements and who will provide this) ...

**Note: Managers must ensure that any support agreed is provided and the member of staff, that they follow and/or comply with these arrangements.**

**5. Review meeting (detail arrangements for monitoring and reviewing the member of staff's progress on return to work and support).**

A meeting will be held on ... (date)... to review your progress on your return to work and discuss any concerns you may have and additional support as appropriate.

---

**Endorsement:**

**I agree to the above return to work arrangements:**

**Signed: ..... Date: .....  
(Member of staff)**

**Signed: ..... Date: .....  
(Manager)**

**A copy of this Agreement should be retained by the member of staff and the original kept for 12 months on the Personnel File, in accordance with the Data Protection Act 1998**

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**APPENDIX B**



## **PEOPLE MATTER**

# **REDUNDANCY, REDEPLOYMENT & ASSIMILATION**

**- POLICY and PROCEDURE -**



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# REDUNDANCY AND REDEPLOYMENT POLICY

## Policy

1. It is the Council's Policy by the use of careful forward planning to ensure as far as possible security of employment for all staff. However, it is recognised that there may be times when unavoidable changes in staffing levels are required which may be brought about by budget restraints, organisational requirements, reduced need for particular skills etc.
2. The Council, in consultation with the recognised trade unions and staff, will always seek to minimise the effect of redundancies. Where redundancy is inevitable the Council will handle the redundancy in a fair, consistent and sympathetic manner.
3. Under the Employment Rights Act 1996 a redundancy situation arises when staff are dismissed in the following circumstances: -
  - (a) The employer has ceased, or intends to cease:
    - i) to carry on the business for the purposes of which the employee was employed; or
    - ii) to carry on the business in the place where staff were so employed; or
  - (b) The fact that the requirements of that business:
    - i) for employees to carry out work of a particular kind; or
    - ii) for employees to carry out work of a particular kind in the place where staff were employed; have ceased or diminished, are expected to cease or diminish.

In local government, this may be as a result of a shortfall in funding (arising from budgetary decisions, a change in funding arrangements or a reduction in the buy back of services), or as a result of a re-organisation.

4. The procedures for redundancy, redeployment and assimilation follow the guidance issued by ACAS, as well as "Best Practice". They apply to all staff directly employed by the Council and are recommended to schools with delegated authority for staffing matters, as "Best Practice".
5. The Council recognises trade unions as playing an important part in the consultation process and in resolving staffing issues. It also has a responsibility to consult directly with its staff.

## Advice

6. Human Resources will provide appropriate support and advice to managers and staff on these procedures. HR advice must be sought before commencing any action under these procedures.

7. Human Resources will provide guidance to managers and staff to ensure that redundancy and redeployment issues are dealt with appropriately, in accordance with these procedures, employment legislation and “Best Practice”.
8. Any queries or disputes as to the interpretation of the procedures that cannot be resolved at departmental level in the first instance, should be referred to the Head of Human Resources or his/her nominated officers for consideration.



## REDUNDANCY PROCEDURE

### Reports to the Director and Member Approval

1. In the event of circumstances arising which may lead to redundancies within any of the Council's services, the Head of Service responsible must submit a report to their Director to notify them of the redundancy proposals and how they plan to carry out any necessary staffing reductions including: -

- i) The reasons for the proposals leading to redundancy;
- ii) The numbers and descriptions of staff whom it is proposed to dismiss as redundant;
- iii) The proposed methods of selecting staff who may be dismissed which shall be as follows: -

a) Restructurings

The process in the Assimilation Procedure (on page 12) will apply.

b) Other proposals involving redundancy

- skills, qualifications and/or experience
- competitive interview
- disciplinary record
- absence record, excluding absences for:
  - i) maternity/paternity/adoption reasons (including Parental Leave)
  - ii) trade union duties
  - iii) Jury Service
  - iv) official duty
  - v) religious observance
  - vi) contractual compassionate leave
  - vii) relating to disability

The proposed method, or combination of methods, should be a matter for consultation between management and the trade unions. (Advice must be sought from Human Resources if there is any dispute or concerns as to the proposed method).

Where there is a disagreement as to the proposals, this may be referred to the relevant Director who will seek advice from the Head of Human Resources.

- iv) The proposed method of carrying out the dismissals with due regard to the Procedure, including the period over which dismissals are to take effect.
- v) The resources and support that will be provided for redeployment and retraining.

2. If the Director agrees to the redundancy proposals, the Head of Service will make every effort to avoid compulsory redundancy by: -
  - the process of natural wastage
  - reviewing recruitment strategies and/or deleting or limiting recruitment to vacant posts
  - a reduction or cessation of overtime working other than contractual or emergency overtime
  - exploring alternative working arrangements e.g. part-time working, job sharing or a shorter working week (with the agreement of staff affected)
  - considering the retirement of staff who are beyond the Council's normal retirement age
  - reviewing the use of non-permanent staff (including casual and temporary staff, consultants, contractors and agency workers)
  - exploring the possibility of the "buy-out" of hours (with the agreement of the staff affected)
  - redeployment within the department or within the Council's service, in accordance with any agreed procedure, including where possible the provision of appropriate training
  - voluntary redundancy/premature retirement (subject to 5 below)
  - any other means the Council may consider appropriate after consultation.

All of the above will be subject to the overall responsibility of the Council to maintain a balanced and effective workforce and subject to the consultation process outlined in Paragraph 5 (on page 3).

3. The Head of Service must pursue all other options before proposing a redundancy/retirement decision, which will not be granted unless the savings from it outweigh the capital costs.

### **Consultation Process and Selection for Redundancy**

4. The Head of Human Resources shall notify the Department of Trade and Industry where it proposed to dismiss as redundant:
  - i) 20-99 employees at one establishment within 30 days or
  - ii) 100 or more employees at one establishment within 90 days
5. There is a legal requirement for consultation where the Council is proposing to dismiss 20 or more staff. The Head of Service will start consultation where there are:
  - i) 20-99 employees at one establishment at least 30 days before the first of the dismissals takes effect or
  - ii) 100 or more employees at one establishment at least 90 days before the first dismissals takes effect.

There is no legal requirement to consult when it is proposed to dismiss as redundant less than 20 staff, but there will be at least 30 days before the first dismissal takes effect. Regardless of the numbers proposed to dismiss as redundant, wherever possible, 90 days consultation will take place before the first dismissal takes effect.

6. The Head of Service will write to the relevant trade unions to formally notify them of the proposed redundancies, with details of the arrangements for a consultation meeting to discuss the proposals. The letter will provide information as to: -
  - i) The reasons for the proposed redundancies;
  - ii) The number and description of staff whom it is proposed to dismiss as redundant;
  - iii) The total number of staff of any such description employed by the employer at the establishment in question;
  - iv) The proposed method of selecting the staff who may be dismissed;
  - v) The proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect;
  - vi) The proposed method of calculating the amount of redundancy payments to be made (other than in compliance with an obligation imposed by or by virtue of any enactment) to staff who may be dismissed.
  
7. The informal consultation period may commence before the Director has agreed the proposals in order to allow time to explore, through consultation with departmental managers, means by which the number of potential redundancies might be kept to a minimum or avoided altogether.

In exceptional circumstances, the formal consultation period may commence before the Director has agreed the proposals when funding for posts is removed or when a delay may put other posts at risk or prevent the Council carrying out its statutory responsibilities etc. In these cases, approval will be sought as soon as possible thereafter.

- i) Managers will establish and agree a timetable for the redundancy process; this should include: -
  - dates for meetings with trade unions and staff, (see Note: i) below);
  - timescales for responding and/or follow up action and obtaining estimates etc;
  - the date(s) for the selection panel and/or for interviews;
  - issue notice/report to the Personnel Board.
  
- ii) Where there is a restructuring, the consultation will include the arrangements and timescales for appointing to posts in the new structure e.g. assimilation, ringfencing or competitive interview. The process in the Assimilation Procedure (at page 13) will apply.

**Note:**

- i) Staff must be notified in writing of the reason(s) for the proposals, the options to be considered and arrangements for a meeting to discuss this. (The arrangements for meetings should always be confirmed in writing).
  - ii) Staff will be able to apply for redeployment as soon as the formal consultation process has started.
8. The Head of Service will ensure the consultation process is carried out in accordance with this Procedure and that the selection of any staff for redundancy is based on objective, fair and justifiable criteria.

**Notice, Personnel Boards and Appeals**

9. Staff identified for redundancy will be issued notice of the termination of their employment, pending final approval by Members and detailing the right of appeal.
10. The Head of Service must obtain Member's approval for redundancies and will submit a report to the Personnel Board detailing:
- i) The reason(s) for the proposed redundancies;
  - ii) The progress of the informal/formal consultation with the trade unions and/or staff representatives, including any objections or issues raised during the process;
  - iii) What action has been taken to keep staff informed as to the progress of the consultation process etc and any decisions taken;
  - iv) The action taken to mitigate the circumstances and avoid redundancies;
  - v) The criteria used for selecting staff for redundancy and how this was applied;
  - vi) The names of the staff whom it is proposed to make redundant along with the costs of redundancy;
  - vii) Whether staff have been notified in writing of their selection and right of appeal;
  - viii) The names of staff who appealed against selection for redundancy, together with the reason(s) for their appeal and the outcome of this;
  - ix) Action taken to date to identify opportunities for redeployment/retraining and support for the staff affected.
11. The appeals process is detailed at Appendix A.
12. Staff will be formally notified in writing of the outcome of the report to the Personnel Board and/or appeal.

## **REDEPLOYMENT PROCEDURE**

### **Eligibility for Redeployment**

1. This Procedure sets out the process to be followed when staff are unable to continue in their current post for reasons of redundancy, ill-health, capability, or the other reasons outlined below.

In exceptional circumstances, the Head of Human Resources may agree to the Procedure being applied in other than redundancy, capability or ill-health cases when:

- i) to do so will help resolve serious interpersonal issues identified following a formal investigation (e.g. bullying/harassment), or;
  - ii) services are transferred to an external provider/partner (and staff wish to be considered for vacancies within the Council as an alternative to being transferred).
2. The Council will make every effort to ensure that when staff become disabled, they stay in employment. Where staff cannot continue in post because of ill-health reasons, the Council will consider redeployment first and seek to avoid dismissal where possible.
  3. All cases will be considered on their merits, in accordance with the Council's policies and procedures and its available resources, employment law and good practice.

### **Redeployment Period and Support to Staff**

4. Staff will remain eligible for redeployment whilst their post is subject to redundancy or they are under notice of the termination of their employment. (Any cases arising under 1i–ii above will be considered on their individual merits).

All eligible redeployees will be placed on the redeployment register; this will commence from the date of the meeting at Paragraph 10 (on page 10). However, there is no guarantee that alternative work is available or will be found nor is there any entitlement to a minimum number of offers.

5. Every effort will be made up to and including the last day of service or the date of transfer to identify suitable opportunities for redeployment. There is no entitlement to have temporary contracts extended under this Procedure.
6. Staff will continue to be employed in the substantive post until they are redeployed or their service is terminated. The normal line management arrangements shall apply and the manager will support staff with advice and assistance to help them obtain redeployment.
7. Human Resources will advise managers on the redeployment process and ensure that this is carried out in accordance with the Council's Equalities and Diversities policies.

8. Staff are required to fully co-operate with the redeployment process. They are required to complete the Council's Redeployment Form, be as flexible as possible in the work to be considered, to prepare well for interviews and to consider all reasonable offers of alternative work.

If, in redundancy cases, staff reject an offer of suitable alternative work, without good reason, they will forfeit any entitlement to a redundancy payment.

9. The Council will continue to seek alternative employment up to and including the last day of service, and, if successful, the notice shall be withdrawn.
10. A meeting will be arranged with the member of staff, line manager and Human Resources to explain the redeployment process, their responsibilities during the process, and the support to be provided. Staff will be offered:
  - career advice and guidance,
  - help identifying transferable skills,
  - counselling,
  - advice on completing application forms and working with person specifications and job competencies,
  - advice on interviewing and presentation skills,
  - training and development,
  - financial and/or practical support for reasonable adjustments to assist staff who acquire a disability to continue in employment.

Note: Where staff have a disability that comes within the scope of the Disability Discrimination Act 1995, there is a statutory responsibility on the Council to make reasonable adjustments. This could mean amongst other things making reasonable changes to the structure of the workplace, obtaining specialist equipment or making changes to the job itself and retraining in specific circumstances.

Staff may be accompanied by a trade union representative or work colleague of their choice if they wish.

### **Matching Redeployees for Posts and Trial Periods**

11. Human Resources will arrange for all requests to advertise or to use non-permanent agency/temporary staff to be monitored for potential redeployment opportunities. They will also arrange for staff to go on the redeployment register and for the relevant details to be circulated.
12. When a potential redeployment opportunity is identified, staff will either submit the Redeployment Form or, if they prefer, an application form clearly indicating that they are applying as a redeployee. Applications from redeployees will then be considered before any other applicants for the post.

13. Redeployees will be assessed against the person specification to see whether they match the minimum criteria for the post i.e. meet the essential skills and ability criteria and with additional training, supervision and support can be expected to meet the experience criteria within a reasonable period. If two or more redeployees apply for the post, selection will be by competitive interview.
14. Where staff meet the requirements for the post, they should be offered a 4 week trial period when they will be monitored to assess their suitability. The trial period may be extended for retraining purposes if both sides agree and in which case, the arrangements must be confirmed in writing.
15. If the trial period is successful, staff will be confirmed in the post and issued a new contract of employment.

### **Pay Protection Arrangements**

16. In redundancy cases, staff accepting a post at a lower grade will have their basic salary protected provided the new post is not more than 2 grades (8 increments) lower than the existing one. This is the maximum protection payable.

Specific entitlements, such as annual leave entitlement and car allowances will be protected for a period of 12 months following the commencement of the redeployment.

There is no other protection. Shift allowances, weekend enhancements, bonus, etc will not be protected if there is no requirement to work these arrangements in the new post; staff will only be paid the allowances, payments and hours applicable in the new post.

#### **Note:**

The pay protection arrangements are subject to review as part of the negotiation of the agreement on Single Status. Any changes in the protection arrangements which arise from the agreement on Single Status will apply to staff who have been protected under these provisions from the implementation date of this Procedure.

17. If the application is unsuccessful at the selection stage or after a trial period, the reason(s) should be explained to the individual and their line manager. The search for redeployment will then resume and continue as long as they are eligible to apply.
18. In ill-health cases, the situation will be kept under regular review and advice sought from the Council's Medical Officer. Where redeployment is not possible and the Medical Officer's view is that the member of staff cannot continue in the substantive post, their service will be terminated in accordance with the Council's Sickness Absence procedures.
19. The appeals process is detailed at Appendix A.

## **ASSIMILATION PROCEDURE**

### **Introduction**

1. This Procedure is to be used when there is a need to restructure a section/team in the organisation and where the existing permanent posts are to be deleted and/or replaced in the new structure.
2. The Procedure will determine whether those staff whose posts are to be deleted should move into posts in the new structure, by identifying where there is a substantial overlap between the duties in the old and those in the new post.
3. Managers must consult the trade unions and staff on any restructuring where jobs may be affected and/or posts deleted, and seek advice from the Departmental Human Resources Service before starting the process.

### **General**

4. Assimilation will involve matching the items on the old and new job descriptions, (excluding items that are common to all job descriptions, e.g. Equalities and Diversity, Health and Safety and mission statements) and/or the time spent on specific tasks.
5. Matching will be against the duties detailed on the job description only. Acting up arrangements (unless the person can clearly demonstrate that they have been doing the full range of the duties for more than two years), secondments and honoraria will not normally be taken into account nor shall performance issues.
6. Managers must ensure all staff have a relevant, up to date job description before starting the process, in accordance with the Sounding Board Procedure. Where there is not an up to date job description, the manager must prepare and agree with the member of staff a list of the duties and responsibilities being undertaken.
7. The Procedure may be adapted by agreement with the trade unions and staff to suit the particular circumstances of the restructure. Any queries or disputes as to the interpretation of the process must be referred to Human Resources.
8. Staff assimilated to a higher graded post will normally be placed on the minimum salary point on the new scale (or their existing scale point if this is higher).

### **Matching**

9. The matching process will normally commence with the most senior post in the new structure first with the remaining posts appointed to in order of seniority.
10. Where there is a 65% or more match, the person will normally be assimilated directly into the post except that: -



- i) when there are two or more members of staff similarly matched, selection will be by competitive interview;
  - ii) for LSMR and JNC posts, the member of staff will also need to demonstrate they meet the competency requirements of the new post or have the potential to meet these within a 6-9 month period.
11. Where there are clear similarities between the duties of old and new job descriptions and/or the time spent on specific tasks but less than a 65% match, the posts will be ringfenced and selection shall be by competitive interview.
  12. Where posts are not considered to be matched at 10-11, the staff and trade unions will be notified and any subsequent representations first considered; the posts will then be advertised at the appropriate time in accordance with the normal recruitment and selection procedures.
  13. Once the matching process has been completed, details of the proposed assimilations will be presented to staff along with details of the arrangements for applying and/or to make representations or appeal against : -
    - i) inclusion/non-inclusion on the list and/to resolve conflicting claims for posts; or
    - ii) the outcome of an assessment interview at 10 i) and in which case the interview will be re-held with another manager from the department and a representative from Human Resources. Their decision on assessment will be final.
  14. Staff will have a right of appeal to the Chief Executive against inclusion/non-inclusion on the assimilation list.
  15. Appeals must be submitted within 10 working days of the notification of the decision and detail the reason(s) for the appeal.
  16. Depending on the outcome of the appeals, the assimilation list will be amended as necessary and the final proposals notified to staff.

### **Assimilation**

17. The process of assimilating staff into posts will begin with the most senior post and assessment interviews held for management posts, as detailed in 10 ii) above.
18. The assimilations will normally be effective from the date the individual starts the new post. The offer will be confirmed in writing and a new contract issued.

### **Unplaced Staff/Unfilled Posts**

19. Staff who are unplaced will be issued precautionary notice of the termination of their employment due to redundancy, pending final approval by Members.
20. The Head of Service must obtain Member's approval for redundancies via a report to the Personnel Board as detailed at paragraph 10 of the Redundancy Procedure.

21. Any posts that are not filled through assimilation will be advertised amongst the remaining staff first and then in accordance with the normal procedures.

## **APPEALS**

### **Redundancy**

1. Staff, including those who accept voluntary redundancy terms, will have a formal right of appeal against the application of the selection criteria or redundancy because of the non-renewal of a fixed-term contract.
2. Staff should write to the Chief Executive within 10 working days of the notification of the decision, setting out the grounds for the appeal. (Staff should use the standard form provided at Appendix B).
3. The member of staff will be formally notified in writing of the arrangements for the appeal meeting. This is the final stage; there is no further right of appeal.
4. The outcome of the appeal will then be included in the Report to the Personnel Board considering the redundancies. The Members' decision is final.

### **Assimilation**

1. Staff will have a formal right of appeal against: -
  - i) inclusion/non-inclusion on the list and/to resolve conflicting claims for posts;
  - ii) where staff are unplaced, the application of the selection criteria for redundancy.
2. Staff should write to the Chief Executive within 10 working days of the notification of the decision of the Selection Panel, setting out the grounds for the appeal. (Staff should use the standard form provided at Appendix B).

### **Redeployment**

1. There is no guarantee that staff eligible for redeployment will be found posts.
2. Any complaints concerning the application of the Redeployment Procedure should be raised with the line manager at the time or as soon as reasonably possible. If the issue cannot be resolved informally, the matter should be dealt with through the Grievance Procedure.
3. Appeals against dismissal will be dealt with in accordance with the relevant procedure.

**Confidential  
REDUNDANCY and ASSIMILATION  
- NOTICE OF APPEAL-**

**Section 1: Employee Details**

Name: ..... Post: .....

Section: ..... Department: .....

**Section 2: Employee Representative Details**

Please detail the name of your representative. (You are entitled to be represented by a trade union representative or a work colleague).

Name: ..... Contact No: .....

Name of trade union (if applicable):.....

**Section 3: Appeal**

**i) Please indicate whether you are appealing against:**

- Selection for redundancy
- Non-renewal of fixed-term contract
- Inclusion/Non-inclusion for assimilation
- Other

**ii) Please confirm**

- That you were notified of the selection criteria (redundancy cases): Yes  No
- The date your fixed-term contract is due to expire (non-renewal cases): .....
- That you were notified of the reason(s) for assimilation/non assimilation: Yes  No
- That you have/have not been offered a post (assimilation cases): Yes  No

**iii) Please detail the reason(s) for the appeal (continue overleaf if necessary)**

In the case of appeal against inclusion/non inclusion for assimilation, please detail the post(s) that you were considered for and/or which you are claiming assimilation to.

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(Please continue onto a separate sheet if necessary)

**Signed:** ..... **Date:** .....

**Please return the completed form (after taking a copy for your records) to the Chief Executive by .....** \*

**\*Note: Failure to respond by this date will be considered as acceptance of the assimilation/redundancy proposals.**

(Please continue on a separate sheet if necessary)

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**Office Use Only**

**A) To be completed by Chief Executive's Office**

Appeal Received: ..... Acknowledged: .....

Referred to Human Resources: .....

**B) To be completed by Human Resources**

Personnel Board Report received: ..... Date of Personnel Board: .....

Department/Staff notified: ..... Staff notified of outcome of PB: .....

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