

# LONDON BOROUGH OF BRENT

GENERAL PURPOSES COMMITTEE – 27 April 2004

REPORT FROM THE DIRECTOR OF HUMAN RESOURCES and DIVERSITY

FOR ACTION

ALL WARDS

## The New Sickness Absence Procedure

### Reason For Urgency

Although this report was included as an item on the Agenda for this meeting it was not possible for it to be sent out with the Agenda. This was because a joint request was received from the GMB and UNISON trade unions for a meeting on Friday 23 April to discuss the proposed procedure. It was considered important that the report reflect the comments the trade unions would make at that meeting.

This report needs to be considered at this meeting as there will otherwise be a significant delay in the proposed procedure being presented to members. Sickness absence is a Best Value Performance Indicator and as the proposed new procedure will be a key tool in enabling managers to effectively manage employee sickness absence it is necessary that it be out in place as soon as possible.

### SUMMARY

1.1 This report sets out the good organisational reasons for developing the new Managing Sickness Absence Procedure, explains its key components and benefits, and seeks approval from General Purposes Committee to implement the new procedure in accordance with the recommendations set out below.

## 2. Recommendations

The General Purposes Committee is recommended to: -

- 2.1 Agree to the content of the attached new Managing Sickness Absence Procedure and its implementation with effect from 1<sup>st</sup> May 2004.
- 2.2 Agree that in introducing the new Managing Sickness Procedure (other than in the case of Brent Financial Services) the sickness absence of all employees covered by the procedure will be reviewed to establish whether or not their sickness absence over the previous six months gives cause for concern, and whether the procedure should be applied.
- 2.3 Agree that the new Managing Sickness absence Procedure applies from the implementation date unless an employee's sickness absence is being currently managed in accordance with Stage 3 of the existing Incapability Procedure, in

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which case that procedure will continue to apply to the employee until the stage 3 process is completed.

- 2.4 Agree that in the case of Brent Financial Services that because an earlier version of the new procedure has been successfully piloted in that area that the new procedure be immediately applied without the need for the six month calculation limit referred to in paragraph 7.5.

### **3. Financial Implications**

- 3.1 Brent's budget for the financial year 2004/05 for direct employees including teachers is £173m. Any reduction in the sickness rate resulting from the new sickness absence procedures would be beneficial in reducing the Authority's agency costs, though any savings would in part be dependent on the arrangements for cover in the various service areas.

### **4. Staffing Implications**

- 4.1 The new Managing Sickness Absence Procedure demonstrates a commitment to fair and reasonable treatment for employees in accordance with legislative requirements and good practice in employment. It is written in concise language and clearly sets out employee entitlements if they are subject to management action in accordance with the procedure. In addition it is planned to engage in good communication with staff to ensure they are aware of the procedure and to make it widely available to them.

### **5. Legal Implications**

- 5.1 Employees dismissed on the grounds of short term or long term sickness absence are entitled to bring to an Employment Tribunal a claim of unfair dismissal against the Council if they have the necessary continuous employment of one year and consider they have been unfairly dismissed.

- 5.2 The proposed Managing Sickness Absence Procedure meets the procedural requirements that have to be met for such a dismissal to be considered fair by an Employment Tribunal. A challenge to a dismissal on the grounds that the amount of sickness absence was not sufficient to justify dismissal will only succeed before the Employment Tribunal if the Tribunal is satisfied that no reasonable employer in the Council's position would have dismissed the employee. When considering whether to dismiss under the procedure officers should consider with the advisers the likelihood of a successful unfair dismissal claim being brought should a decision to dismiss be made.

### **6. Diversity Implications**

- 6.1 The new Managing Sickness Absence Procedure contains a specific section on considering any adverse impact. It directs managers to ensure that their application of the procedure does not have any adverse impact, for example in

the unbalanced use of the procedure on particular groups of employees compared to the informal process. In addition the procedure demonstrates a commitment to fair and flexible treatment of disabled employees in compliance with the Disability Discrimination Act.

## **7. Detail**

7.1 The Council's existing Incapability Procedure has been in place since April 1998. It is incorporated in the Human Resources Technical Standards. The Incapability Procedure has a dual purpose and aims to maintain appropriate standards of attendance and work performance. The procedure has been badly in need of review. It has proved difficult for managers to effectively apply the procedure to managing short term sickness as it contains no triggers for activating management action which is integral to its success. In addition the lack of adequate distinction between how to manage short term and long term sickness, and poor work performance has led to a lack of clarity for managers, and has not assisted them sufficiently in their efforts to manage such complex and sensitive issues.

7.2 Corporate Management Team and senior managers in the Council have expressed their wish for a fundamental review of this procedure to be undertaken. The aim is to have in place a procedure that demonstrates its effectiveness and relevance to the Council's important objective of managing sickness effectively and improving employee attendance at work. This is crucial given the very high cost of employee sickness absence. Apart from the direct costs of organising cover for the absent employee, there are additional indirect costs of less effective service delivery, delayed production, and a cause of possible low morale and dissatisfaction for those employees who are covering for the absent employee. In addition working days lost due to sickness absence is a Best Value Performance Indicator. It is therefore imperative that the Council has in place the proper mechanisms to enable managers to effectively manage sickness absence, and to create a culture of high attendance at work.

7.3 The new Managing Sickness Procedure addresses these imperatives. It is written in clear and concise language and sets out a step by step approach with stages for action to enable managers to address and properly manage employee sickness absence in a fair, structured, timely and systematic way. It draws a distinction between the different processes required for managing short term and long term sickness absence. In the case of short term sickness it sets down triggers for action to advise managers as to when the procedure might be activated. The new procedure makes it a requirement for managers to conduct return to work interviews with staff after each period of sickness absence. It sets down the circumstances for employee referral to the Occupational Health Service and how review periods operate, for example their purpose, how long they last, and how

the details are communicated to staff. The procedure also sets out a systematic format for managing long term sickness which includes sufficient review mechanisms to ensure a proper balance between the employer's duty of care and sympathy for the employee and the management need to manage sickness absence. Finally due to the detailed and sometimes complex nature of sickness management the Managing Sickness Absence Procedure contains accompanying guidance for managers on how best to apply the procedure.

7.4 The attached procedure has been welcomed by the Strategic Human Resources and Organisational Development Group and by Corporate Management Team as a highly effective tool for managing employee sickness absence. Both groups have given their full endorsement to the procedure.

7.5 In order to gain maximum impact from the implementation of the procedure it is proposed that in introducing the new procedure the sickness absence of all employees will be reviewed to see whether or not their sickness absence over the previous six months gives cause for concern and whether the procedure should be applied.

7.6 It is also proposed that a seamless changeover from the existing Incapability Procedure to the new Managing Sickness Absence Procedure takes place and that only in those cases where an employee is in the advanced stage of the existing procedure i.e. Stage 3 of the procedure that the existing procedure continues until the Stage 3 process is completed.

7.7 In the case of Brent Financial Services who have successfully piloted an earlier version of the new procedure, it is proposed that the new procedure apply there with immediate effect without the six month calculation limit referred to paragraph 7.5.

7.8 There has been considerable consultation over a period of time with the Council's recognised trades unions. Both sides have worked together to achieve an approach to managing sickness absence that is mutually acceptable. This is reflected in the content of the new Managing Sickness Absence procedure.

## **8. Background Information**

8.1 This report is based on the following documents that are in the possession of Pat Keating, Employee Relations Manager.

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The Human Resources Technical Standards  
The ACAS Code of Practice on Disciplinary and Grievance Procedures  
The Employers Organisation a Guide to Managing Sickness Absence  
The Employers Organisation The Sickness Absence Management Diagnostic

Valerie Jones  
Director of Human Resources