



Attendance Management Policy and Procedure

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Human Resources

Attendance Policy and Procedure

1. Introduction.....	4
2. Our Approach.....	4
3. Policy Statement.....	4
4. Scope.....	4
5. Roles and Responsibilities	4
5.1 Employees.....	4
5.2 Managers.....	5
5.3 Human Resources	5
5.4 Occupational Health	5
6. Types of Sickness	6
7. Reporting and Recording Sickness Absence	6
7.1 Reporting Sickness Absence	6
7.2 Reporting Sickness Absence During Annual Leave	7
7.3 Reporting Sickness Absence Whilst Abroad	7
7.4 Annual Leave During Sickness	7
7.5 Recording Sickness Absence	8
7.6 Medical and Dental Appointments	8
7.7 Medical Suspension	8
8. Sickness Absence Management Procedure	9
8.1 Return to Work Interview	9
8.2 Trigger Points	9
8.3 Sickness Absence Management Meetings	10
8.3.1 Stage 1 Sickness Meeting	10

8.3.2	Stage 2 Sickness Meeting	11
8.3.3	Stage 3 Final Sickness Meeting	12
8.3.4	Decision to Dismiss	13
8.3.5	Appeal Against Decision to Dismiss	13
9.	Grievances	15
10.	Disciplinary Action	15
11.	Non Attendance at Meetings	15
12.	Medical Redeployment	16
13.	Ill Health Retirement	17
14	Referral to the Occupational Health Service	18
14.1	General Principles	18
14.2	Referral for Conditions not Involving Absence from Work	19
14.3	Phased Return to Work	19
15	Consideration of Specific Circumstances	20
15.1	Ill Health which does not lead to Absence from Work	20
15.2	Employees Suffering from Stress	20
15.3	Pregnant Employees	20
15.4	Gender Reassignment	21
15.5	In Vitro Fertilisation (IVF)	21
15.6	Disability Related Sickness Absence	21
15.7	Work Related Injury	22
16	Diversity	22

1 INTRODUCTION

Treating employees fairly and consistently ensures that sickness absence is managed successfully to the benefit of our staff and our customers. Promoting a culture of attendance will encourage improved performance and the delivery of cost effective services.

2 OUR APPROACH

By encouraging a positive and proactive approach to the health and well-being of our employees, we aim to prevent and reduce illness due to work or lifestyle. This policy reflects our commitment to improving effectiveness and attendance at work, and helping people who are ill return to work.

3 POLICY STATEMENT

Brent's attendance policy helps managers to deal with sickness absence and successfully reduce sickness levels whilst promoting the health, safety and well-being of all employees.

Each case of ill health will be assessed and managed according to its particular circumstances and managers are expected to take both informal and formal action in accordance with the policy.

Managers should ensure that their application of this policy does not impact unfairly on employees with reference to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

We have a duty not to discriminate against people with disabilities and to make 'reasonable adjustments'.

This policy is non contractual. Legal representation is not permitted at any stage of the procedure.

4 SCOPE

This policy and procedure applies to all Brent employees. It does not apply to new employees during their probationary service where separate monitoring processes apply; and school-based staff who are subject to separate procedures.

5 ROLES AND RESPONSIBILITIES

5.1 Employees are required to:

- maintain regular and punctual attendance at work
- follow the rules relating to reporting sickness absences and submit fit notes at the relevant time in line with the Attendance Policy and Procedure
- safeguard their health and take appropriate action to facilitate a speedy return to fitness when they are absent from work
- maintain contact with their manager/work base during periods of sickness absence
- attend meetings and Occupational Health appointments relating to their absence or other health issues. Failure to attend may result in disciplinary

action

- be aware that a delay in refusing to allow their GP to be contacted to release relevant medical information may result in decisions being taken which will be based on the available information at the time
- provide their manager with an up to date telephone contact number so that they can maintain regular contact whilst on sick leave

5.2 Managers are required to:

- ensure the Attendance Policy and Procedure is applied fairly and consistently by responding to triggers as required
- promote a healthy and safe workplace and encourage regular attendance
- ensure sickness absence records are updated and maintained and correct payments made
- inform employees of their duties and obligations under this policy when appropriate
- pro-actively manage the sickness absence of employees in line with this policy, and make timely case management decisions
- maintain regular contact with absent employees
- put local arrangements in place to help reduce sickness absence in their services
- provide employees with support facilities to help manage sickness absence
- comply with health and safety stress risk assessment requirements and complete action plans as necessary
- conduct return to work interviews with employees after every period of sickness absence
- identify areas of risk that may affect the health and wellbeing of employees;
- attend or participate in relevant training and development to ensure the effective management of sickness absence;
- take steps to ensure that employees provide up to date fit notes to cover periods of sickness absence.

5.3 Human Resources are required to:

- liaise regularly with managers to ensure they are taking appropriate action to manage absences
- provide advice, support and guidance to managers on sickness absence cases
- monitor, review and report absence trends on a departmental and corporate basis, recommending pro-active and reactive solutions, as appropriate
- escalate issues of non-compliance as required

5.4 Occupational Health

The Council's Occupational Health Service offers the following core services:

- Pre-employment health screening
- Management referrals for sickness absence
- Advice and guidance on fitness to work

- Statutory health surveillance
- Advice to the Council on relevant legislation
- Case conferences
- Assessment for ill-health retirement
- Stress workshops
- Flu Vaccinations
- Fit for Life wellbeing events
- Pay as you go service (for schools)

6 TYPES OF SICKNESS ABSENCE

There are three types of sickness absence that lead to management under this policy:

- *Short-term sickness*

This is frequent absence where there does not appear to be an underlying medical condition. For example, short periods of absence for unrelated conditions such as headaches, colds etc.

- *Frequent and Intermittent short-term sickness (chronic illness)*

This is absence that is caused by an underlying medical condition (usually a serious, continuing illness, disease or serious injury), resulting in frequent periods of short term absence from the workplace.

It is possible that this type of illness could be considered a disability in the context of the Equality Act 2010.

- *Long-term sickness absence*

Long term absence characterised by a long period of continuous absence. This is normally caused by an underlying medical condition or serious, continuing illness, disease or serious injury of a long-term nature that results in the individual being absent from the workplace for a continuous period of time, usually at least a month.

It is possible that this type of illness could be considered a disability in the context of the Equality Act 2010.

This policy applies to all the above types of sickness absence.

7 REPORTING AND RECORDING SICKNESS ABSENCE

7.1 Reporting sickness absence

Cases of ill-health will be approached in a supportive and understanding manner, with periods of sickness absence being dealt with promptly, sensitively and appropriately by managers. However, it is an individual employee's responsibility to inform their manager if they are unable to attend work due to ill-health.

Employees must speak to their manager or alternative designated contact by telephone before their normal starting time on the first day of absence. Managers should be advised of the nature and likely duration of the illness. The employee should leave a number on which they can be contacted if the manager or alternative

designated contact is not available to take the call. Failure to do so may lead to the absence being considered as unauthorised, resulting in loss of pay and possible disciplinary action.

Employees must agree contact arrangements with their manager while they are off sick. If the absence is for more than three working days, then they must contact their manager on the 4th working day. Employees should provide their manager with regular updates on at least a weekly basis on their condition for the duration of their absence.

Employees must provide a fit note to cover absences longer than seven calendar days. The fit note must be provided by no later than the eighth calendar day of absence. Employees will also need to complete a self-certification form to cover the first seven days when they return.

Further fit notes must be submitted as necessary and in advance of expiry of the previous fit note to cover the total period of absence. Failure to comply with the certification procedures will result in loss of sick pay and retrospective fit notes will only be accepted in exceptional circumstances.

Employees are also encouraged to contact their manager to give them any information which might be needed about their work in order to ensure cover and continuity of service provision is maintained.

7.2 Reporting sickness absence during annual leave

If an employee becomes sick during a period of booked annual leave (for example at a time when they would have otherwise been due to attend their workplace), this may be recorded as sickness absence (and annual leave re-credited). This will, however, only be credited as sickness absence if the employee reports their sickness in the usual way and provides satisfactory evidence of their incapacity (eg a medical statement from a UK or overseas doctor).

7.3 Reporting sickness absence whilst abroad

Where an individual becomes sick while overseas and there is a significant time difference, they should report their sickness to their manager at the earliest possible time.

Where an employee falls sick whilst on holiday overseas and is due to return to work, they are still required to report sickness as outlined above and must provide medical certificates to cover their periods of sickness absence. If an employee is unable to travel back to the UK due to medical reasons, this must be supported by medical evidence verified by a recognised medical body. The Council reserves the right to withhold sick pay in the absence of medical evidence and failure to provide this may lead to disciplinary action.

7.4 Annual leave during sickness

Annual leave will accrue during sickness absence. Employees may carry forward to the next leave year up to 5 days or the balance of the statutory maximum of 20 days plus any Public Holidays which fell during the period of absence (pro-rata if part-time), whichever is the greater, if they do not return to work in the same leave year. Any

leave taken during the relevant leave year will be deducted from the statutory 20 days (pro-rata as necessary) that can be carried over into the next leave year. Where employment is terminated by the Council for sickness reasons, the outstanding balance of the leave should be paid.

Employees who return to work in the same leave year, are entitled to their contractual annual leave. Up to a maximum of 5 days may be carried over into the new leave year in this case.

Advice on carry over or payment for annual leave should be taken from HR.

7.5 Recording sickness absence

Sickness absence is recorded in calendar days. For example, if an employee falls sick on a Friday and does not return to work until Tuesday, then this is recorded as four days sickness. However, only working days absence count towards trigger points under this policy. In this example, two days count towards the relevant trigger.

If an employee becomes sick and leaves work before completing half of their contracted hours for that day, they will be recorded as being sick for one day. If they work more than half of the day, then they will be treated as if at work for the full day and sick leave will not be deemed to start. However, managers should make a note of this and discuss it with the employee at return to work meetings if it occurs more than once in a 3 month period.

Managers must ensure that all absence is recorded on Oracle and that the relevant category of sickness is recorded. Managers must not leave the sickness category blank or record as 'Other' or 'Not Known'. The only exception to this is that absence as a result of gender reassignment should be recorded as 'Other' and annotated with 'does not count towards triggers'. If they are unsure which category a specific condition falls under, they should contact HR for advice.

7.6 Medical and Dental Appointments

All staff should try, whenever possible, to attend appointments outside of their normal working hours, although it is recognised that this is not always possible, especially with hospital appointments. Individuals will need to produce an appointment card or similar record of appointment if required, and discuss with their manager a strategy for reducing appointments if there is cause for concern.

Absence related to attendance at medical appointments will not be taken into account in assessing whether an employee has hit a trigger, unless the employee is undergoing a procedure which results in them being unfit to attend work, in which case the absence should be recorded on Oracle as sickness under the relevant category.

7.7 Medical Suspension

Occasionally it may be necessary, following Occupational Health advice and in discussion with HR, to suspend a member of staff on medical grounds, in order to ensure that they do not stay at work, or resume work if there is a risk to themselves, to other members of staff or members of the public. The suspending manager must be at Head of Service level and suspension must be approved by the Director of HR (or designated deputy). The employee will receive full pay during medical suspension.

Only in the most exceptional circumstances will medical suspension last longer than 8 weeks.

Medical suspension should not be used if the employee feels or is considered to be physically or mentally unfit for work, in which case the employee should be advised to take sick leave and obtain a GP fit note if the absence continues beyond 7 calendar days.

8 SICKNESS ABSENCE MANAGEMENT PROCEDURE

8.1 Return to work interview

A manager (or designated deputy) should always meet with the employee, usually on the day of their return from sickness absence regardless of the duration for every period of absence. The basic purpose of the return to work interview is to acknowledge that the employee has been unable to attend work due to ill health and offer them support and encouragement on their return to work.

If any reasonable doubt exists about the validity of a particular absence, the circumstances should be objectively investigated.

During the return to work interview the manager should cover the following areas, as appropriate:

- welcome the employee back to work and discuss the reason(s) for absence;
- determine whether any reasonable adjustments need to be made to the working environment to ensure a safe and smooth return to work;
- establish whether the sickness absence was work related and whether there are any health and safety issues which must be addressed;
- ensure that the employee understands the impact their absence has had;
- brief the employee about any developments in the workplace which have happened while they have been away, e.g. changes in staff, systems, location, equipment;
- determine whether there are any training or development needs which have arisen during the employee's absence. Any essential training should be organised at the earliest opportunity;
- perform a risk assessment, if appropriate;
- check that all necessary documentation e.g. fit notes and Doctor's statements are up to date and that a self-certification form is completed by the employee;
- discuss whether to refer the employee to Occupational Health for medical advice and discuss the referral form with the employee if necessary;
- where a trigger has been met, an appraisal of the next steps should be made and notified to the employee;
- record all return to work interviews on Oracle, and record decisions where a trigger has been reached.

8.2 Trigger points

The manager must review an employee's attendance where an employee hits one of the following trigger points:

- 3 occasions of absence in any rolling 3 month period; or

- Two or more occasions of absence amounting to 2 working weeks' (full time or part time equivalent) absence or more in any rolling 12 month period or
- Patterns of absence which cause concern, e.g. absences on either side of a weekend or rest day or at specific times of the week/month/year; or
- A continuous period of absence of at least 3 working weeks

If an employee has hit one of the trigger levels the manager should initiate the sickness absence management procedure outlined below.

Absence related to disability, pregnancy / IVF and gender reassignment should not be taken into account in taking formal attendance management action. However, managers still need to ensure that employees are appropriately supported if they are unable to attend work, eg risk assessment, reasonable adjustments etc.

Equally, it is not the council's policy to disclose details of disability, pregnancy / IVF and gender reassignment related absence in employee's references.

Sometimes, a manager will know when to expect their employee back at work, for example after an operation or a course of medical treatment. In some cases, illnesses may be treated over a period of time and could result in intermittent attendance or there may be unexpected extensions to medical treatment. If this is the case, it will be important to discuss the appropriate management action based on the specific circumstances of the case with HR. However, if the absence continues, further action may be necessary.

8.3 Sickness Absence Management Meetings

The sickness absence management procedure has three stages:

- Stage 1 - sickness meeting;
- Stage 2 - sickness meeting;
- Stage 3 - Final sickness meeting;
- Appeal against dismissal should dismissal be an outcome of a stage 3 meeting

Employees will be given at least five working days' notice of any meetings, including appeals.

The employee has the right to be accompanied by a trade union representative or a work colleague at all stages.

8.3.1 Stage 1 Sickness Meeting

The manager must assess an employee's attendance where a trigger has been reached. A Stage 1 sickness meeting should be held with the employee when a trigger has been reached or where there is a cause for concern about the employee's health. If the employee is absent from work, the employee should be either requested to attend the meeting in the workplace or the meeting may be conducted at the employee's home address or an alternate location. The key aspect of this stage is that a meeting must happen as soon as possible after a trigger is reached.

The purpose of the Stage 1 sickness meeting is to:

- determine whether the employee is fit or is likely to be fit to return to work
- Identify the likelihood of further absence
- assess the need for a referral to Occupational Health if a medical opinion is required
- identify problems affecting the individual's health and performance and where practicable resolve
- assess the effects of the absence on the service
- ensure the employee understands the attendance management procedure
- decide what additional steps are necessary in accordance with the circumstances
- inform the employee that his/her sickness absence will continue to be monitored and if they hit another trigger within the next 12 months, Stage 2 will be initiated. If the manager considers that absences are likely to continue, he/she must complete an action plan

The manager should confirm the outcome of the meeting, including any actions agreed, with the employee in writing and place a copy on the employee's personal file

Note: If further sickness absence occurs, the process will re-commence at the point that it left off (for example the process will not begin again because a different trigger has been hit). This is applicable regardless of which stage has been reached in the attendance management procedure

8.3.2 Stage 2 Sickness Meeting

Following on from the Stage 1 sickness meeting, the manager in consultation with the Senior HR Adviser should set up a Stage 2 sickness meeting. The employee should be provided with at least 5 working days' notice of the meeting.

At the meeting, the manager should:

- Confirm the employee's sickness absence dates and the trigger point that has been reached
- Identify any difficulties being caused by the frequency or pattern of the employee's absences
- Consider any explanation the employee has for their absence level, and how confident they feel that their future attendance level will improve
- Discuss with the employee whether any measures can be taken to reduce their level of sickness to an acceptable level
- Consider whether any reasonable adjustments need to be put in place to support the employee back to work
- Explain that the Council will take all reasonable measures to support the employee in achieving an acceptable level of attendance
- Decide, after consulting the employee, whether they should be referred to Occupational Health
- Consider whether it would be appropriate to require the employee to provide a fit note each time they are absent (cost to be reimbursed by the Council if there is a charge)

- Consider the impact on service delivery and the effect on other members of the team
- Explain the risk to the individual's employment should absence levels continue to be a cause for concern

Inform the employee that they are likely to progress to Stage 3 final sickness meeting of this procedure if:

- their attendance record remains a cause for concern (i.e. their absence record is above the trigger levels) following the Stage 2 sickness meeting;
- they hit a further trigger point within a 12 month period following the Stage 2 formal sickness meeting

Set a review period if applicable.

A letter must be sent to the employee, normally within 5 working days of the meeting, to confirm the discussions and outcome of the meeting.

If the employee's attendance level is no longer a cause for concern (i.e. no further triggers have been hit within the following 12 month period), no further action will be taken.

The manager may hold more than one Stage 2 sickness meeting in order to manage the employee's sickness absence before moving on to Stage 3 final sickness meeting. However, the manager may move to a Stage 3 final sickness meeting if the employee's sickness absence remains a cause for concern and where dismissal is a possible outcome.

The manager must consider whether ill-health retirement or medical redeployment are appropriate options before progressing to a Stage 3 final sickness meeting. Any decision to move to a Stage 3 final sickness meeting must be supported by up to date medical advice obtained through Occupational Health.

8.3.3 Stage 3 Final Sickness Meeting

A Stage 3 final sickness meeting should be arranged if short term or long term absences persist, in accordance with the circumstances described above and should only be held where dismissal from the Council's employment is a possible outcome.

In advance of the meeting, the manager must prepare a report which includes:

- the level and effect of the sickness absence(s).
- Action taken, including dates, referrals, any alterations to working conditions etc.
- factual medical information including Occupational Health advice.

The employee should be provided with a copy of the report along with a letter requesting attendance and providing at least 5 working days' notice. The employee has the right to be accompanied by a trade union representative or a work colleague to this meeting.

The meeting will be chaired by a senior manager who has authority to dismiss. A member of Human Resources will provide procedural advice to the Chair and both the

employee and manager will normally be in attendance.

In considering whether to dismiss the employee, the Chair will take the following factors into consideration:

- the nature of any illness and medical opinions received;
- the length and frequency of absences and periods of attendance between them;
- the likelihood of continued or further periods of absence;
- the impact on service delivery and resources of the team
- the extent to which managers have informed the employee that their level of absence will put on their continued employment with the Council and the risk to their job.
- special considerations raised by the employee to support their case.
- appropriateness of the considerations given by managers to the options as an alternative to dismissal e.g. reasonable adjustments; reduced hours; medical redeployment; ill-health retirement.

The Chair will usually decide on one of the following options as an outcome to the meeting:

- to dismiss the employee with notice or pay in lieu of notice; or
- in exceptional circumstances, give up to 3 months for the manager to work with the employee to identify further measures to enable the employee to improve their attendance, at the end of which the final absence meeting will reconvene to decide on the most appropriate action. This could still be dismissal, if there has been insufficient improvement.

8.3.4 Decision to dismiss

Where the decision is taken to dismiss an employee, it will be on the grounds of incapability due to the employee's level of sickness absence.

A letter should be sent to the employee, normally within 5 working days, to confirm the outcome of the meeting, to give contractual notice or confirmation of pay in lieu of notice and their right to appeal against dismissal. The employee should be kept informed if there is a delay in sending out the letter.

8.3.5 Appeal against Dismissal

Any employee who is dissatisfied with a decision to dismiss on the grounds of absence due to ill health may appeal to ("the Appeal Hearing Officer"). The Appeal Hearing Officer will be at the level of seniority of Strategic Director, Operational Director or Head of Service who will be at the same level of seniority or at a higher level than the manager who took the decision to dismiss, and will be the manager specified in the letter to the employee confirming the outcome of the hearing. The Chair of the Stage 3 panel will normally present the management case at the appeal hearing. The appeal must be lodged within 10 working days of the date of the letter confirming the dismissal decision.

The appeal must be made in writing and must clearly and specifically state in detail the ground or grounds for appeal and the detailed basis for each ground of appeal

relied on. The ground(s) for appeal must fall within one or more of the following categories:

- There was a procedural irregularity which had a material effect on the dismissal decision
- The hearing officer came to a conclusion on a material point of fact which no reasonable person could have come to
- The decision to opt for dismissal rather than an alternative option was one that would not have been reached by any reasonable employer
- There is new evidence which the employee wishes to introduce for the first time at the appeal which could not reasonably have been raised at the original hearing and the absence of which had a material effect on the dismissal decision.

Where the letter of appeal does not provide the necessary information to allow it to be processed the Appeal Hearing Officer will write to the employee seeking clarification.

The Appeal Hearing Officer will arrange for the appeal to be heard as soon as reasonably practicable and at least 5 working days' notice will be given.

The employee will have the right to be accompanied by a work colleague or a trade union representative. The meeting may be postponed by up to 5 working days to enable the employee's chosen representative to attend.

The appeal hearing will not constitute a full re-hearing of the case. It will only address the specific grounds of appeal set out in the letter of appeal. The Appeal Hearing Officer can refuse to consider any new evidence if they decide it is unreasonable for it to be raised for the first time at the appeal.

The Dismissing Manager and the employee will provide each other with any documents to be used by them and the names of any witnesses to be called by the third working day before the appeal hearing.

The Appeal Hearing Officer will chair the meeting and Human Resources will be in attendance. In all cases the Strategic Director/Operational Director or Head of Service will be supported by a Human Resources representative.

The Appeal Hearing Officer will have the authority to confirm the dismissal decision or to overturn it. In the latter event, re-instatement or re-engagement with continuous service will apply and the officer will have the authority to decide on an alternative option to dismissal.

Where the Appeal Hearing Officer decides to uphold the appeal in the case of procedural flaw or new evidence they will have the discretion to refer the case back for a rehearing. Where the case is referred back for a rehearing they will decide whether the case should be reheard by the same officer who originally heard the case or by a different hearing officer.

If the appeal is on the grounds of new evidence, referral to the original hearing officer will be for the consideration of the new evidence together with any of the original evidence which is relevant to the new evidence in order to reach a decision. The options open to the Chair are either to:

- uphold the original decision and confirm the dismissal; or
- withdraw the dismissal.

The Chair should make their decision based on whether the evidence supports or does not support one or more of the grounds for appeal specified above.

The decision of the Chair of the appeal meeting will be final and the employee will normally be informed of the outcome within 5 working days of the meeting.

9 Grievances

Employees will not be able to raise a grievance about the fact that they are at any stage of the Attendance Policy and Procedure, including the fact that the Council is contemplating commencing any stage in this Procedure. The only exceptions would be a grievance that claims that the action amounts to or would amount to unlawful discrimination or some other breach of statutory duty. In such cases, consideration should be given to whether it is appropriate to suspend the action under the Attendance Policy and Procedure for a short period whilst the grievance is investigated or whether the grievance and attendance management process can be dealt with concurrently. The decision about whether or not to suspend the action and for how long is at the sole discretion of the Council.

10 Disciplinary action

Any informal or formal action taken in response to genuine ill-health or injury will be taken under the provisions of this policy and must not be considered a disciplinary matter.

In clear cases of misconduct, the Disciplinary Procedure will be followed instead of this policy. Examples of potential misconduct are:

- unjustifiable failure to follow the sickness absence procedure
- unauthorised absence resulting from a failure to report absence or provide fit notes in a timely manner and/or evidence to support sickness absence
- carrying out an activity which cannot be reasonably consistent with the nature of sickness absence or is prejudicial to recovery
- deliberate falsification of information such as medical certificates
- failure to attend occupational health appointments – attendance is expected unless there are exceptional circumstances
- abuse of the sickness scheme, for example, reporting in sick when there is evidence that they are not;
- becoming sick due to their own misconduct or neglect;
- engaging in paid employment during Council contracted hours of work while off sick

Any of the above may lead to disciplinary action being taken against the employee and/or to the suspension of sick pay.

11 Non-attendance at meetings

If the employee or their representative cannot attend a meeting for a reason, which

was not foreseeable when the meeting was arranged, the employee should notify the manager, who will then arrange another time and date, usually within 5 working days of the original date.

If the employee does not attend after a second invitation, the manager may continue with the procedure in the employee's absence.

12 Medical Redeployment

When it has been identified at a Stage 2 meeting that an employee cannot complete the duties of their substantive post it will be necessary to consider alternative employment opportunities.

Medical redeployment is an option where:-

1. Occupational Health advice indicates that the employee is permanently unable to undertake the full duties of their post on health grounds
and
2. Occupational Health advice indicates that the employee will be able to carry out alternative work within the Council and maintain satisfactory attendance

and

3. the employee wishes to be considered for alternative employment.

The investigation of medical redeployment opportunities is also a requirement of the ill-health retirement provisions of the Local Government Pension Scheme, which states that an authority has to ensure that the employee cannot undertake any comparable employment.

If the Occupational Health advice confirms that the employee is permanently unfit to carry out their substantive role but is otherwise fit for work and where there is no suitable alternative post with the team/service, redeployment opportunities will be sought in other areas of the Council.

Any search for medical redeployment opportunities should be documented and undertaken for a period of up to one month. By exception this period may be extended in discussion with the HR Manager. The redeployment process is outlined in the Managing Change Policy.

If a redeployment search is unsuccessful then at the end of the one month period, the case will be referred for consideration as to whether the employee should be dismissed on the basis of their incapability to undertake their duties.

The job search for an alternative post will be limited to one grade above, the same grade or one grade below the employee's current substantive post. If the employee is redeployed into a post one grade lower, no pay protection will be payable.

If a medical redeployment opportunity is found, the employee will initially undertake a trial period of four weeks to assess whether they, and their new manager, believe that it is a suitable placement. Reasonable training should be offered to ensure satisfactory induction into the role. The four week trial period of assessment will apply to medical

redeployees as to other redeployees.

If the trial period proves successful, the employee's permanent transfer can then be confirmed.

If concerns arise during the trial period, the redeployee or their new manager may discuss the matter with a member of Human Resources with a view to deciding the best course of action in the circumstances. This could involve a further referral to Occupational Health in order to review the employee's capabilities, ill-health retirement or a Stage 3 hearing, where termination of services on the grounds of medical incapability will have to be considered.

13 Ill health retirement

Where an employee is suffering from chronic or life limiting illness which may render them permanently unfit to carry out their duties efficiently, ill health retirement must be considered prior to convening a formal meeting to consider dismissal on capability grounds. Ill health retirement involves the termination of the employee's employment by the Council and/or by mutual agreement. Human Resources can offer further advice.

In order to be entitled to an immediate unreduced pension under the Local Government Pension Scheme, an ill health certificate is required from an independent registered medical practitioner (IRMP) qualified in occupational health medicine. Managers who receive a report from Occupational Health recommending retirement on the grounds of ill health will normally meet with the employee, their representative and Human Resources to discuss the report and its implications.

To qualify:

- Employees must have at least three months in the pension scheme, (including any previous pensionable service which has been transferred in to this Authority);
- The employer must decide to terminate the employee's employment on the grounds that the employee's ill health renders them permanently incapable of carrying out efficiently the duties of their job;
- The employer must decide that the employee has a reduced likelihood of obtaining gainful employment before age 65.

If the Council decides with the support of the opinion of the IRMP that the employee satisfies the above conditions, then on termination of the employee's employment s/he will receive an immediate unreduced retirement pension providing they are a member of the Local Government Pension Scheme. The IRMP will issue an Ill health retirement certificate to the employer. There are 3 tiers of ill health retirement benefits, based on the severity of the illness:

- *Tier 1*

If the Council decides on advice from the IRMP that the employee has no reasonable prospect of getting gainful employment before the age of 65, then pension benefits are based on service up to the age of 65. Tier 1 level is not subject to any review mechanism.

- *Tier 2*

If the Council decides on advice from the IRMP that the employee has no prospect of getting gainful employment within 3 years of leaving, but it is likely that the employee will be able to get gainful employment before age 65, then pension benefits are based on actual service, plus 25% of projected service to age 65. Tier 2 level is not subject to any review mechanism.

- *Tier 3*

If the Council decides on advice from the IRMP that the employee is likely to get gainful employment within 3 years of leaving, the pension benefits are based on actual pensionable service only, with no service enhancement. The employee must inform the employer when they obtain gainful employment. If the Council considers that the employee is in gainful employment, then from the date the employee is considered to be in gainful employment, the pension will cease and any overpayment recovered by the employer. Tier 3 would be subject to an eighteen month review meeting.

Further advice on the three tier system is available from Human Resources.

14 Referral to the Occupational Health Service

14.1 General Principles

A manager may refer an employee to Brent's Occupational Health Service, for example:

- If absence levels are high or frequent or a pattern of absence emerges. It is, however, inappropriate to refer employees suffering from occasional viral or bacterial infections
- To establish whether there is any underlying medical condition or to gather more information about the sickness or prognosis for recovery
- If a manager considers that an employee is unfit for work, providing evidence to support their opinion
- If it appears that the employee's sickness is caused by work-related stress, working conditions, work activities or work equipment, the manager must refer the employee to Occupational Health

Managers should forward a completed management referral form to the Occupational Health Service, with a copy to the Senior HR Adviser if they identify that an employee needs Occupational Health support. The manager should include evidence of any action taken or support given to the employee in the referral. The employee should be informed that the referral is taking place and the reasons for it.

The Occupational Health Service will assess the referral and determine the appropriate action. This may involve making an appointment for the employee to see Occupational Health and generally will involve a face to face consultation. The referring manager will be given advance notification in writing of the date and time of the appointment.

Once a consultation has been undertaken the Occupational Health Service will prepare a report on the health of the employee containing clear, meaningful,

actionable advice to enable managers to progress cases. The advice must provide managers with enough information for the manager to make informed decisions on the next steps to manage the absence in a timely manner. The Occupational Health Service will send a copy of the report to the employee and also send a copy to Human Resources.

Managers must arrange to meet with the employee to discuss the content.

If there is a discrepancy between the views of Occupational Health and the manager on an individual's capability for work which cannot be resolved by additional medical referrals, it is more productive to hold a case conference. Case conferences may also be helpful in looking at proposed phased return arrangements following a period of long term sickness.

The case conference would normally include the employee, the employee's representative, the employee's manager, Human Resources and Occupational Health.

The Council's conditions of service state that an employee must undergo a medical examination by a medical practitioner nominated by the authority subject to the provisions of the Access to Medical Reports Act 1988 where applicable. Failure to comply with this requirement may result in loss of earnings and may also result in decisions being made regarding an employee's absence without relevant OH advice being available.

14.2 Referral for conditions which do not involve absence from work

An employee who is not absent from work but is unable to perform aspects of their role because of illness or disability should be referred by their manager to Occupational Health for a Fitness to Work report.

The line manager should meet with the employee to discuss the outcome of the report and any reasonable adjustments that may be required. The manager will be responsible for ensuring that any appropriate reasonable adjustments recommended by Occupational Health are implemented. The manager will monitor arrangements and discuss progress and effectiveness with the employee as necessary. If circumstances change, e.g. the role, medical condition or disability, the manager may make another referral to Occupational Health for further advice on reasonable adjustments. If, after reviewing the situation, the manager determines that arrangements are not working, a formal meeting (with right of representation) may be required under the Attendance Policy and Procedure in respect of 'fitness to work' to consider actions to date and their effectiveness.

It may be appropriate to place the employee in the redeployment pool on medical grounds for up to one month. If redeployment is successfully sought, the employee will move to a new post. If redeployment is unsuccessful, the line manager should hold a second formal meeting to consider actions to date and the redeployment pool search. The outcome of this second formal meeting will be for a senior manager to consider dismissal on the grounds of capability. If the outcome is termination then the employee has a right of appeal.

14.3 Phased return to work

In many cases, a phased return to work for someone returning from long-term absence will be appropriate. This recommendation will usually come from Occupational Health, but is ultimately the decision of the line manager in line with business needs. This may mean a structured return to work over a number of weeks, working reduced hours, or carrying out fewer/different tasks (or both), gradually building up to normal contractual arrangements. This should usually take no more than four weeks. Service provision must be taken into account when planning a phased return and in some instances it may not be feasible. Where the recommendation of the employee's GP falls outside Council policy, an Occupational Health opinion will be sought and will take precedence.

The employee will normally receive full pay for up to four weeks during a phased return programme and progress will be reviewed weekly. It should not be assumed that all phased returns should be for a period of four weeks as it may be appropriate for a shorter phased return. By exception a phased return may be in excess of four weeks with full or reduced pay as applicable in discussion with Occupational Health and the HR Manager.

At the end of the phased return, the manager should meet with the employee to establish whether they are ready to meet the full requirements of their role, if they have not already done so.

If necessary, the manager will take further advice from Occupational Health and, in liaison with Human Resources, consider any alternative options such as redeployment on health grounds.

15 Consideration of Specific Circumstances

15.1 Ill health which does not lead to absence from work

There may be occasions where an employee is suffering from ill health, but is not absent from work. If an employee believes that their ill health is impacting on their ability to undertake their job, they should consult their manager, who will discuss with them whether any additional support may be provided. Occupational Health can offer further advice and guidance.

15.2 Employees suffering from stress

Managers, employees, Human Resources and trade unions all have a role to play in ensuring that stress and any related illnesses are identified and managed as effectively as possible. The Council has a separate Stress Policy, which is on the intranet, which provides advice and guidance on dealing with incidences of stress. Managers must ensure that they meet with employees if they have concerns about any employee exhibiting symptoms or signs of stress, or who they think may be at risk of stress. If necessary, the manager and employee in question will then complete a stress risk assessment. In certain circumstances, work related stress could be deemed to be work related illness covered by the process set out in para 15.7.

The line manager must refer an employee to Occupational Health if the reason for absence is given as stress related or there is an indication that it is stress related.

A free counselling service is available to all employees as part of the Council's Employee Assistance Programme. This includes work-related issues, phase of life

issues, major life changes, adjustment problems, traumatic experiences, relationship, caring or financial problems and conditions such as anxiety and depression. Contact details can be found on the intranet

15.3 Pregnant employees

If an employee has a pregnancy-related illness, their manager should consider how this could affect them doing their job. Medical information should still be obtained but these absences should be recorded as 'pregnancy related' and dealt with carefully in consultation with Human Resources. This absence will not count towards management action if it results in the employee hitting a trigger. Such illnesses are of a temporary nature and the law gives extra rights and protection to pregnant employees. In particular, an employee should not be subject to any detriment as a result of sickness that is caused by pregnancy. Illness could also trigger an early start to maternity leave. Please refer to Brent's Maternity Policy for more information.

Managers must complete a New and Expectant Mothers Risk Assessment with the employee to highlight any alterations and/or any adjustments to working arrangements that may need to be implemented once made aware of the pregnancy.

15.4 Gender reassignment

Managers must not treat employees less favourably for being absent from work because they propose to undergo, or are undergoing or have undergone gender reassignment than they would treat them if they were absent for reasons of illness. Employees undergoing gender reassignment treatments and associated procedures including hair removal and speech therapy are entitled to up to 10 days paid special leave in any 12 month period in accordance with the Council's Time Off Policy.

In some cases the employee may be unable to work due to the effects of the treatment and signed off sick by the GP. This sickness absence will not count towards management action if it results in the employee hitting a trigger.

15.5 In Vitro Fertilisation (IVF)

There is no statutory right for employees to take time off work to undergo investigations or treatment. However, following implantation the employee is regarded as being pregnant.

If the IVF is unsuccessful, the protected period ends 2 weeks after the end of the pregnancy - 2 weeks after the date the employee was informed that implantation was not successful.

Medical appointments related to IVF will be treated the same as any other medical appointment. Employees undergoing IVF are entitled to up to 10 days paid special leave in any 12 month period.

In some cases the employee may be unable to work due to the effects of the treatment and signed off sick by the GP. This sickness absence will not count towards management action if it results in the employee hitting a trigger.

15.6 Disability related sickness absence

Disability related sickness absence will be recorded and reported to managers if the level of absence reaches a trigger in order to ensure that appropriate support is offered. Such absence must be managed sensitively and the focus must be to understand, with advice from Occupational Health, the potential impact of the employee's disability on their attendance at work and how they can be supported to maintain their attendance at work through appropriate reasonable adjustments. The dismissal of a disabled employee, on the grounds of their disability, or subjecting an employee to any other detriment on the grounds of their disability is unlawful under the Equality Act. However, where an employee's disability makes it impossible for them to perform the main functions of their job, and all reasonable adjustments have been fully explored, termination of employment can be justified.

Advice on specific cases can be sought from Occupational Health in conjunction with the Senior HR Adviser. General advice can be found in the Brent reasonable adjustments document at <https://lbdigitalservices.sharepoint.com/sites/intranet/resources/HR/pp/Pages/Workplace%20adjustments/Workplace-adjustments.aspx>

15.7 Work related injury or ill-health

If an employee or manager believes that ill health or injury has been caused or made worse by work, the employee must notify their manager without delay and report the matter using the online accident reporting system on the intranet.

If the absence is caused through illness or accident which is reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR), the Corporate Health and Safety Team must be informed without delay so that they can notify the Health and Safety Executive.

For more details about the Council's Accident Reporting Procedure please see the intranet or contact Corporate Health and Safety at corporatehealthandsafety@brent.gov.uk .

If an employee has not completed an accident report and subsequently believes their health or injury has been caused by work, they must report this in writing to their manager, setting out the reasons why they believe that work has contributed or caused their ill health or injury.

All accidents at work and ill health possibly resulting from work activities must be investigated by the employee's line manager in the first instance with Corporate Health and Safety support if required. Line managers should also inform their Head of Service and discuss the situation with Human Resources. Advice may also be sought from Occupational Health.

Upon completion of the investigation, a report should be sent to the Head of Service, with a copy to the employee and HR Manager.

The Head of Service will determine with the HR Manager whether or not the employee has sustained an injury or developed ill-health as a result of what they were required to do at work.

Written confirmation of the decision will be sent to the employee within five working

days of the decision. In the event that ill health or injury is attributed to work, the Council does not accept liability that it is responsible, merely that the illness or injury is work related.

16 Equality Considerations

Managers and employees have a responsibility to promote the Council's Equality Policy, treating others with respect, valuing diversity and avoiding discrimination. The Council's Equality Policy can be found on the intranet at [https://lbdigitalservices.sharepoint.com/sites/intranet/resources/HR/Documents/Brent Equality Policy FINAL.pdf](https://lbdigitalservices.sharepoint.com/sites/intranet/resources/HR/Documents/Brent%20Equality%20Policy%20FINAL.pdf)

During the managing sickness absence process, it is important that managers recognise and consider any relevant issues in relation to any protected characteristics:

- age
- disability
- gender re-assignment
- marriage/civil partnership
- pregnancy and maternity
- race
- sex
- sexual orientation
- religion or belief

In particular, reasonable adjustments must be made where an employee has, or develops, a disability, which affects their attendance levels and therefore their ability to perform their job. The Council also has specific managers' guidance that contains information in relation to this.

A referral to Occupational Health may be appropriate to establish whether any measures, support or adjustments are required to meet the needs of disabled employees at work.

The Council also supports a number of staff equality networks to promote understanding between different groups of people employed by the Council. These include a disability network, gender network, cultural diversity network, and LGBT+ network.