

**Manchester City Council  
Report for Information**

**Report to:** Human Resources Subgroup – 3 March 2016  
**Subject:** Managing Attendance Policy  
**Report of:** Head of HROD Service Delivery

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**Purpose of the Report**

This report seeks comments from the HR Sub Group on the draft revised Managing Attendance Policy. This policy has been updated to include recent developments in legislation, organisational changes, incorporate recommendations from a recent Audit report and best practice in relation to management of attendance.

**Recommendations**

The HR Sub Group is asked to note this report and provide comment.

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**Wards Affected: All**

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**Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

N/A

## **1 Introduction**

- 1.1 This note sets out the proposed revisions to the Managing Attendance Policy. This policy has been revised to place a greater emphasis on health and wellbeing and the importance of preventative action from individuals and managers. The revised policy also incorporates changes in legislation organisational. The revised policy emphasises the importance of good management as the fundamental factor to creating a positive and supportive working environment and hence reduce occurrences of absence.
- 1.2 The HR Sub-Group is requested to provide comment and feedback prior to the revised policy being submitted to Personnel Committee. Once formally adopted by Personnel Committee, this policy will replace the existing arrangements as approved by Personnel Committee at its meeting on 10 February 2010.

## **2 Background**

- 2.1 Across the Council a total of 81,846 working days were lost due to absence in 2015. This equates to an average of 13.07 days per FTE over the 12 month period which is higher than in 2014 (12.03) and in 2013 (11.76). 35% of long-term absence over the last quarter was related to stress, anxiety or depression.
- 2.2 The Council is currently addressing the above issues proactively with a number of health and wellbeing initiatives in place to support employees such as physical activity classes, health champions and also initiatives to help managers in dealing with absence such as management of attendance training.
- 2.3 Key to improving attendance is the creation of a culture where people want to attend work and are able to discuss issues with their manager in a positive way. Managers play an integral role in improving an organisation's attendance levels by dealing with poor behaviour, reinforcing positive behaviours and taking a consistent, but not necessarily uniform, approach to managing absence.
- 2.4 The Management of Attendance Policy has been revised to encourage and further strengthen this approach.

## **3 Need for Review**

- 3.1 The current Management of Attendance policy was developed in early 2010 and whilst the principles established in that document are still sound, the importance of the above emphasis on the role of managers and encouraging health and wellbeing, has become more apparent in the intervening years. There have also been legal developments since the previous policy's publication which require addressing within the new policy e.g. the Equality Act 2010, pension regulations (which impact on how ill health retirement is dealt with) and organisational changes e.g. the use of an external Occupational Health provider.

- 3.2 In order to fully encompass the legal developments, encourage behaviour change and strengthen messages around health and wellbeing, the revised policy will be accompanied by practical guidance. This will provide support to managers in how to manage different types of absence and robust messages around the benefits for both the employee and organisation in being pro-active in identifying and supporting health issues at an early stage.

#### **4 Research and Consultation**

- 4.1 A review of Management Attendance Policies across the AGMA authorities was undertaken to inform Manchester's revised approach. In addition, best practice guides from a range of HR advisory sources were also reviewed. This research showed that Manchester's draft revised Managing Attendance policy is comprehensive and addresses the key issues in relation to absence and absence management.
- 4.2 Officers also liaised with those authorities who have recently successfully reduced absence and explored how these authorities planned and implemented their successful strategies.
- 4.3 Wide consultation with stakeholders has also been undertaken. This included the Legal Employment Team, Audit, the Equalities Team, service managers, trade union colleagues and the Disabled Staff Group. Relevant comments and suggestions from the consultation exercise have been considered and incorporated. Feedback from this consultation on the draft policy has been very positive.
- 4.4 A copy of the draft revised Managing Attendance policy is available at Appendix 1.

#### **5 Main Changes**

- 5.1 The main changes in the draft are as follows:
- Focus on the health and wellbeing throughout the document
  - Clear processes for addressing specific types of absence including pregnancy and disability related absence and accidents and injuries at work
  - Introduction of monitoring periods providing a timeframe for implementation and assessment of reasonable adjustments, which aim to prevent delays, increase manager accountability and ensure adjustments are suitable for the employee
  - Robust messages around the importance of productive Return to Work Interviews and Attendance Monitoring Reviews in encouraging early intervention and support for health and well being
  - Guidance on record keeping and roles and responsibilities
  - A Process Flow Chart at Appendix 1 to assist managers and employees. In addition to outlining the process for short term and disability related absence this provides suggested timeframes when addressing long term

absence in order to ensure managers regularly maintain contact/keep abreast of the health of employee and consider adjustments etc

- Detailed guidance on the Equality Act at Appendix 2. This includes provision of information on disability related absence and reasonable adjustments and illustrative scenarios to help managers consider common sense approaches to facilitate attendance.
- Additional information has been developed to help both managers and employees comprising:
  - Frequently Asked Questions
  - Do's and Don'ts
  - Dealing with sensitive conversations

## **6 Summary**

- 6.1 Once approved by the Personnel Committee, this policy will be published alongside detailed guidance and information to staff on the Council's intranet.
- 6.2 It is envisaged that this policy and the supporting guidance will have a positive impact on the health and wellbeing of the workforce, complement the existing strategies and initiatives around managing attendance (as outlined in the other report on today's agenda) and be instrumental in reducing absence by providing a clear and easy to understand framework for managers.
- 6.3 A full Equality Impact Assessment has been conducted as the policy has a high relevance to equality. The assessment highlights that the revised policy advances equality of opportunity by providing clear guidance on disability and pregnancy related absence and will help ensure managers are clear on their responsibilities under the Equality Act. This underpins the local authorities' statutory responsibilities in ensuring that those with protected characteristics are treated fairly and providing with support and assistance where possible to adequately carry out their contractual duties.

## **7 Conclusion**

- 7.1 The HR Sub Group is asked to note and provide comment on this policy. These comments will be incorporated in the final draft policy prior to its submission to Personnel Committee for approval.

# **(Draft)**

# **Managing Attendance Policy**

Employee Relations Team  
HROD  
March 2016



**MANCHESTER  
CITY COUNCIL**

## Document Control

Title	Managing Attendance Policy
Document Type	Policy
Author	Employee Relations Team
Owner	HROD
Subject	Arrangements for Managing Attendance
Created Date	January 2016
Approval Date	tbc
Review due	Two years from date of approval (or earlier where there is a change in the applicable law or an organisation change which affects this Policy).

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**Appendix 1**      **Flowchart**

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## 1. Introduction

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- 1.1 Manchester City Council is committed to the health and wellbeing of its workforce and to developing a pro-active approach to managing attendance at work. The contribution of staff in the provision of quality services to the people of Manchester is highly valued and attendance at work is an intrinsic part of this provision.
- 1.2 Whilst the Council recognises that there will be occasions when employees will be prevented from attending work through ill health, the Council has a duty to maintain service delivery to its residents and minimise disruption to its working arrangements, whilst balancing the needs of the employee.

## 2. Purpose and Scope

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- 2.1 The purpose of this policy is to ensure that sickness absence is managed in a timely, effective, fair and consistent manner across the Council. It aims to encourage all of its employees to maximise their attendance at work, and for managers to make an effective contribution to service delivery through providing a supportive work environment.
- 2.2 The Council aims to achieve this through:
  - Promoting a positive work environment
  - Focusing on the health and wellbeing of staff
  - Respect for confidentiality
  - Making reasonable adjustments to take account of the needs of disabled and pregnant employees in accordance with the Equality Act 2010
  - Seeking medical advice from appropriate qualified practitioners where appropriate
  - Implementing arrangements to provide support to staff when absent, whilst addressing unjustified and/or high levels of sickness absence
  - Monitoring levels of sickness absence for individuals, teams, services, and the authority as a whole.
- 2.3 This policy applies to all Council employees including teachers in a centrally managed service. It will not apply to agency staff, casual staff or those in their probationary period of service (covered by the Procedure for Managing Probation) and teachers employed by schools, who may be covered by separate terms and conditions relating to their employment.
- 2.4 This policy is written to accord with various legislation and guidance including but not limited to the Equality Act 2010; Employment Rights Act 1996; Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010, ACAS Guidance and related Manchester City Council Policy documents.

## 3. Roles and Responsibilities

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### **Heads of Service are required to ensure that:**

- They model good attendance management behaviours and practices

- Managers within their services are familiar with this policy and the associated guidance and procedures
- Performance around sickness absence management is routinely discussed and sickness absence is monitored and addressed appropriately
- Appropriate action is taken where managers and supervisors fail to manage sickness absence in line with this policy and in a timely manner.

**Managers are required to:**

- Encourage a supportive and positive work environment
- Monitor and identify absence trends and patterns and conduct meaningful Return to Work Interviews and productive Attendance Monitoring Reviews
- Maintain regular contact with absent employees
- Arrange Attendance Management Hearings where appropriate and prepare and complete all documentation, including outcome letters
- Seek HROD advice if required and initiate referrals to Occupational Health
- Identify and implement reasonable adjustments where appropriate
- Attend case conferences and ensure agreed actions are carried out
- Take a consistent, but not a uniform approach to managing absences
- Provide a comprehensive handover to managers during employee transfer.

**Employees are required to:**

- Comply with notification and verification of absence in line with the procedure
- Inform their manager as soon as possible of any changes in their condition affecting their ability to do their job or the timescales for their return to work
- Unless otherwise agreed, be available during normal working hours to discuss their absence with their line manager.
- Attend meetings and appointments held under this policy and participate in treatment programmes where required.
- Co-operate with identifying and implementing reasonable adjustments.
- Take personal responsibility for their own health and well-being.

**HROD Officers will:**

- Provide clear advice on managing attendance, capability issues and associated policies
- Advise managers on the employment aspects of managing sickness absence with a view to reducing sickness absence on an individual/overall basis including dismissal
- Highlight problem areas with regards to attendance with the appropriate senior manager.

**Occupational Health will:**

- Advise on conditions covered by the Equality Act 2010, assessing the physical and mental fitness of employees and the work an employee can undertake, within the parameters of their medical condition
- Seek to obtain medical information from GP's and Specialists and make onward referrals as appropriate, and advise, when possible, on the expected length of recovery periods and/or return to work dates
- Advise Managers and employees at case conferences

- Provide management reports and recommend appropriate management action based on the medical circumstances of an employee.

#### 4. **Employee Health and Wellbeing**

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- 4.1 The Council seeks to support and encourage employees to take responsibility for their health and wellbeing and in doing so promote the health and wellbeing of its employees.
- 4.2 We recognise that mental wellbeing is a significant cause of absence and acknowledge the need for a clear corporate approach to supporting this.
- 4.3 Information on a number of health and wellbeing initiatives can be found on the Health and Wellbeing intranet pages. These intranet pages include a comprehensive list of external links to health organisations, fitness apps and web sites, information on the cycle purchase scheme and a calendar of regular healthful events across the Council such as fitness classes and running groups. The Council also provides regular internal information on health encouraging employees to keep well at work.
- 4.4 In addition to health and wellbeing initiatives, the Council encourages a work life balance and offers various options with regards to flexible working (where possible) to those who request it. Further information on flexible working can be found on the HROD intranet pages.

#### 5. **Notification of Sickness Absence**

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- 5.1 In order for service delivery to be maintained, employees are required to inform their supervisor/manager by telephone of their inability to attend work. Contact must be made by the employee **before 10:00 AM** on the first day of absence or **2-3 hours** prior to their shift.
- 5.2 Absence reports should not be made by anyone other than the employee unless there are exceptional circumstances. Notifying managers of absence via emails or text is not acceptable unless previously agreed with the relevant manager. In order to assist management to assess the likely duration of absence and arrange the necessary cover, employees need to specify the details outlined below.
- **Cause of absence** – including whether the absence is disability related.
  - **Likely date of return to work** – this may change following a visit to the doctor and the employee must keep their manager informed.
  - **Details of work** i.e. any appointments, outstanding work, deadlines, training that will need re-arranging or reallocating.
- 5.3 Where an employee is not able to give an expected date of return they must telephone their manager on each day of absence to keep the manager updated on their health.
- 5.4 Where an employee's supervisor/manager is not available, the employee must contact another designated supervisor/ manager within the service and leave a message and contact number. It is not appropriate to leave a message with a colleague. If a message is left for a manager the employee should expect the supervisor/manager to telephone him/her at home later to establish the reason for the absence.
- 5.5 Failure to report absence in the manner described above may result in an employee losing pay and/or disciplinary action (see section 21).

## **6. Verifying Sickness Absence**

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- 6.1 If absence continues for more than seven days (including non-working days) an employee will require a Fit Note from a General Practitioner (GP) to verify the reason for their absence. The note should include an expected date for return to work. It is essential that the Fit Note covers the whole period of absence and must be provided no later than four days after the expiry of the previous self-certified period, or the expiry of a previous Fit Note.
- 6.2 In cases where an employee wishes to return to work prior to the expiry of a Fit Note, the employee must discuss this with their manager. The employee does not require a GP to declare they are fit to return on the expiry of a Fit Note. However managers may make a referral for an Occupational Health assessment prior to return, to consider any health issues and to ascertain whether the employee is fit and well enough to undertake their duties.
- 6.3 If an employee fails to inform their manager about their absence in accordance with this policy or provide the relevant documentation their absence from work may be considered unauthorised, which may impact salary and possibly result in disciplinary action (see Part 21).
- 6.4 Managers must:
- Ensure they have all the relevant information from the employee
  - Ensure they complete relevant Mi Team records in a timely manner
  - Retain a copy of the original Fit Note
  - Make a note of the key points of any discussion or actions agreed

## **7. Maintaining Contact during Sickness Absence**

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- 7.1 Managers have a responsibility to maintain contact with absent employees. The purpose of maintaining contact is to offer appropriate support and to keep the employee updated on work matters.
- 7.2 Unless other arrangements have been previously agreed, employees should expect to be contacted by telephone (wherever possible) by their line manager during their initial period of sickness absence to enquire about their wellbeing.
- 7.3 Where absence continues above 20 days contact will be via Attendance Monitoring Reviews undertaken face to face on a 4 weekly basis (see Part 14 and flowchart at Appendix 1).

## **8. Sickness Absence Recording**

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- 8.1 Each period of absence will need to be formally recorded electronically, The employee's absence records may be used as part of any review of absence or any other occasion where the supervisor/manager believes that the information is of material relevance to any decisions being considered regarding the employee.

- 8.2 Managers must complete a Return to Work meeting with the employee and the accompanying form and provide a copy to the employee to sign. The manager is then responsible for completing the relevant information on Mi Team, retaining the form and providing a copy to the employee.
- 8.3 Every time a manager has a meeting concerning an employee's absence they need to keep notes to enable them to ensure that issues raised by the employee/manager is followed up or dealt with in a timely way. This may be a one-off incident or it may be the beginning of an episode that the employee may require support with.
- 8.4 Keeping accurate records and ensuring that agreed actions have been completed will be needed to support any formal action taken under the Managing Attendance Policy. Poor management of a case will cause an unavoidable negative impact on employment relations between the employee and the manager/supervisor.
- 8.5 It is essential that managers follow up any agreed recommendations for further action in writing, within 10 working days of a Return to Work Interview/Attendance Monitoring Review (see Parts 14 and 16).
- 8.6 Managers are responsible for storing records. This should be done electronically, with the relevant restrictions on access, to prevent the sharing of personal information and ensure information security. Absence records constitute confidential information and will be retained in accordance with the Managing Attendance Policy and related information security legislation.

## **9. Sickness Absence and Annual Leave**

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- 9.1 Employees have the right to request periods of paid annual leave during a period of sickness absence. Any such annual leave will not count as sickness absence and the period of sickness before and after will constitute one period of continuous sickness absence.
- 9.2 Occupational sick pay may be withheld, and/or the disciplinary procedure invoked if an employee's behaviour or activities during a period of sickness absence are inconsistent with the stated reason for sickness absence or are clearly detrimental to their recovery, for example strenuous activity, periods of work outside of their contract etc.
- 9.3 Employees who are sick during planned annual leave have the right to request that relevant days are recorded as sickness absence and to take those days as annual leave at another time when they are well. For clarification on carrying over annual leave to the next financial year due to sickness absence, employees must contact their line managers in the first instance.

## **10. Dealing with Short Term Sickness Absence**

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- 10.1 Short term sickness absences commonly occur due seasonal flu, viruses, food poisoning, winter vomiting etc they are not absences related to a condition or impairment/disability. A flowchart outlining the process for dealing with short term sickness absence can be found at Appendix 1.
- 10.2 Managers are responsible for recognising when short bouts of absence are impacting on service provision and must address the potential underlying issues in a timely manner.

To facilitate this, managers will need to be pro-active and attentive to the reasons for absence and ensure an adequate Return to Work Interview is held upon the employees return (see section 14).

- 10.3 Where an employee has a number occurrences of short term absences managers must consider underlying issues and referral to Occupational Health to consider potential external causes. Where absences becomes a cause for concern/hits trigger levels (see section 15) managers may invite the employee to attend an Attendance Monitoring Review (see section 16).
- 10.4 Where periodic short term absence continues and the manager has taken measures to clarify that the absence is not related to disability, they may consider issuing an Improvement Notice.

### **Improvement Notice**

- 10.5 An Improvement Notice is a formal written document provided by a manager to an employee outlining the improvements needed/identified at an Attendance Monitoring Review. Improvement Notices are not to be issued for disability related absence, long term sickness or pregnancy related absence.
- 10.6 After an Improvement Notice is issued, the employee will be cautioned that if the improvement identified is not achieved and sustained for 12 months, then a further Attendance Monitoring Review may need to be held and an Attendance Management Warning may be issued.
- 10.7 An Improvement Notice issued under the Managing Attendance Policy will remain live for 12 months and run parallel to any disciplinary warnings (the Notice can not be extended beyond 12 months).
- 10.8 Notices will not be used for 'totting up' purposes should any disciplinary sanction be imposed under the City Council's Disciplinary Procedure. Should an Improvement Notice be issued, the employee will have the right to appeal to a nominated Second Tier Officer (or their representative).
- 10.9 Where an improvement notice has not been sufficient to change behaviors and absence continues (which is not related to a disability) managers may progress to an Attendance Management Warning.

### **Attendance Management Warning**

- 10.10 An Attendance Management Warning (AMW) is a formal written cautionary notification given to an employee on the basis of unsatisfactory attendance levels. There are two levels of warnings, a First AMW and a Final AMW. A Final AMW is given where a First AMW has not been adhered to. AMWs are not to be issued for disability related absence, long term sickness or pregnancy related absence.
- 10.11 After a First AMW is issued the employee will be cautioned that if satisfactory attendance is not achieved and sustained for 12 months, then a further Attendance Monitoring Review may need to be held (warnings can not be extended beyond 12 months).
- 10.12 An AMW issued under the Managing Attendance Policy will remain live for 12 months and run parallel to disciplinary warnings. They will not be used for 'totting up' purposes should any disciplinary sanction be imposed under the Council's Disciplinary Procedure.
- 10.13 Should a First AMW or Final AMW be issued, the employee will have the right to appeal to a nominated Second Tier Officer (or their representatives).

- 10.14 Should a Final AMW be issued, employees who continue to have unsatisfactory attendance levels in the subsequent 12 month period may in accordance with procedure, be invited to an Attendance Management Hearing which may result in dismissal.

## 11. Dealing with Short Term Sickness Absence (Related to Disability)

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- 11.1 Disability related absence is that which can be directly or indirectly attributed to a condition or impairment that meets the Equality Act 2010 definition as being “*a physical or mental impairment that has a substantial and long-term adverse effect on your ability to do normal daily activities*”. For a more in-depth explanation of what substantial, long-term and daily activities means please use the following link <https://www.gov.uk/definition-of-disability-under-equality-act-2010>.
- 11.2 Where there are a number of absences and it is unclear which of those absences is disability related managers should make a referral to Occupational Health. These referrals need to clearly identify full details of each absence including the reason(s) for the absence, dates and relevant information provided by the employee at the time of their return to work.
- 11.3 Where disability related absence (long or short term) occurs, the focus will be to ensure that the employee receives the required support. Additionally it is imperative that managers ensure that reasonable adjustments are put into place and assessed in a timely manner. This will be done via a monitoring period and subsequent AMRs where needed. A flowchart outlining the process for dealing with absence related to a disability can be found at Appendix 1.

### Monitoring Periods

- 11.4 Monitoring periods should be used by managers to implement and assess adjustments and support to assist disabled employees to undertake their role. The process of arranging and implementing adjustments should normally take no longer than 4 weeks.
- 11.5 Where it is the view of a manager or service that a particular proposed adjustment cannot be made/is not effective they should seek advice from HROD in the first instance. Where an adjustment is deemed unreasonable or impractical this should be recorded with the reasons why and the employee (his or her representative) should be informed accordingly. Any representations made by the employee regarding this should be given due consideration.
- 11.6 All reasonable adjustments proposed by either the employee; his/her GP or Occupational Health should be recorded. Due consideration should be given to all of these and a determination given with regards to what can and cannot be implemented and why.
- 11.7 Employees must note that there will be occasions where adjustments to a role may not be sufficient to accommodate their needs. Where this occurs, every effort will be made to locate a suitable role via **mpeople**.
- 11.8 Where an employee's absence continues the manager may invite the employee to attend an Attendance Monitoring Review (see section 16) and subsequent monitoring periods may be required where adjustments are reviewed or an alternative role is sourced.

- 11.9 Where all reasonable adjustments have been considered/an alternative role has been found/can not be found/is not considered suitable, and there is still concern surrounding attendance issues, consideration will be given to progression to an Attendance Management Hearing (see section 17 and Appendix 1).

*NB: The dismissal of a disabled employee, on the grounds of his or her disability, or subjecting an employee to any other detriment on the grounds of his or her disability is unlawful under the Equality Act. However, where an employee's disability makes it impossible for him or her to perform the main functions of their job, and all reasonable adjustments have been fully explored, termination of employment can be justified (see Appendix 2).*

## **12. Dealing with Long Term Sickness Absence (includes absence related to disability)**

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- 12.1 Absence is considered long term where an employee is absent for 20 consecutive working days or more (or the equivalent for part-time staff). Where it is likely an employee will be absent for more than 20 working days. Where an employee indicates their absence will be long-term, it will be useful to obtain Occupational Health advice as soon as is practical to gain an indication of the type of illness/potential timeframes involved in recovery, the support required and adjustments needed.
- 12.2 Managers are responsible for keeping in contact with an employee who is absent long term, via monthly Attendance Monitoring Reviews (see Part 16).
- 12.3 Where an employee is returning from a period of long term sickness Occupational Health will advise on any adjustments or working patterns that should be implemented. Phased return working patterns are not automatic and the hours/pattern of work of an employee returning from long term sickness absence will be dependent both on the advice given by Occupational Health and the requirements of service provision.
- 12.4 Where adjustments are identified to accommodate the needs of a disabled employee returning from long term sickness absence, a monitoring period as set out in section 11 should be undertaken to ensure timely implementation and assessment of adjustments.
- 12.5 Where long term sickness is continuous, despite the implementation of support or adjustments, and medical reports indicate that it is unlikely the employee can return to their original role, consideration will be given to alternative role where possible.
- 12.6 Where long term sickness absence continues and all reasonable adjustments have been considered, an alternative role has been found/can not be found/is not considered suitable, consideration will be given to progression to an Attendance Management Hearing (see section 17 and Appendix 1).

## **13. Other Types of Absence**

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### **13.1 Accidents or injuries at work**

Where an employee reports their absence due to an injury or accident at work, there will be a requirement for the manager to communicate with Health and Safety, complete

and update any relevant incident records and make the relevant reports to the Employee Life Cycle Team .

Employees must provide documentation to verify any injury or accident at work as per the verification process at section 6.

Absence due to an injury or accident at work will be treated in line with the relevant Managing Attendance procedure (see Appendix 1 and 2 for further information).

### 13.2 Absence Related to Pregnancy

When an employee notifies her manager that she is pregnant, managers must initiate a risk assessment to establish if there are any health and safety risks within the role/location of a pregnant woman or their unborn child. Any assessment should be carried out in consultation with the employee. For further information on pregnancy and maternity see the HROD intranet pages.

Where a period of absence is reported as pregnancy related, managers should record this on the Return to Work Interview form and where relevant on any systems used to record absence. This to ensure it is not counted towards the employees total sickness absence record. A pregnancy related illness includes any condition linked to the pregnancy. If a manager is unsure whether an illness is pregnancy related, advice can be sought from HROD, Occupational Health or with the consent of the employee, their GP/Midwife/health professional after the employee returns to work.

Managers should be mindful of any adjustments suggested by an employees midwife, GP or health professional to facilitate the employee to undertake their day to day duties.

Managers must allow a pregnant employee time off for ante-natal care. Ante-natal care can include medical examinations, relaxation and parenting classes. Managers can request evidence of the relevant appointment card/letter before authorising leave.

If an employee is absent with a pregnancy-related illness in the last four weeks of their pregnancy (approximately 36 weeks), the employer can ask the employee to start their maternity leave, for further information see the HROD intranet pages.

## 14. Return to Work Interview

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14.1 A Return to Work Interview (**RTWI**) is the first opportunity a manager has to meet with the employee to;

- Ensure the employee is fit to be back at work
- Discuss the reasons for absence
- Provide updates on work issues
- Decide if referrals to Occupational Health is required.

14.2 Irrespective of the length of absence, the supervisor/manager must arrange to meet with the employee within **2 working days** of the return to work to conduct an RTWI. An RTWI should be held where possible by the manager of the employee.

14.3 Conversations during an RTWI can be sensitive and may be difficult. For guidance on having sensitive conversations please visit the HROD Managing Attendance intranet pages.

14.4 During the RTWI interview the manager should:

- Ensure that the employee is fully recovered and capable of performing their duties. If in doubt, urgent advice will be sought from HROD, regarding the need for risk assessments (e.g. back pain)
- Demonstrate an interest in the employee's welfare and consider underlying external issues such as commitments at home
- Ensure correct medical documentation has been provided by the employee
- Check that the employee has followed the procedure for reporting sickness. If procedures have not been followed, the manager should explain to the individual the consequence of non-compliance e.g. stoppage of pay, disciplinary action (see Part 21)
- Consider whether a pattern of absence is emerging, if so, this should be raised with the employee
- Decide whether any further action is required, e.g. referral to Occupational Health Unit, Attendance Monitoring Review, disciplinary action
- Explain the consequences of unacceptable levels of absence
- Update the employee on work related issues arising in their absence

14.5 If an employee has failed to follow the reporting/verification procedure a copy of the procedure must be provided to them and this must be recorded on the RTWI form.

14.6 At the end of a RTWI managers must update the relevant electronic systems, complete the RTW form and provide a copy to the employee to sign. The employee must receive a copy of the form and managers must store records in an electronic format with the relevant restrictions to ensure information security.

## 15. Triggers

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15.1 The following triggers will prompt a manager to examine an employees absence record and request an employee attend an Attendance Monitoring Review

- 5 or more days absence in the last 3 months
- 3 or more occasions of absence in the last 3 months

15.2 Triggers alert managers to undertake a review of an employee's record of absence and assess whether further action is necessary. They should not be used as a substitute for a full consideration of each individual's circumstances and the nature of their absences.

15.3 In addition to these triggers managers can request an Attendance Monitoring Review and examine an employee's absence record where there is a specific cause for concern. For example:-

- Patterns of absence e.g. on Fridays/Mondays or before or after Bank Holidays
- Increase in absence following expiry of an Improvement Notice or an Attendance Monitoring Warning
- Any other reason where attendance could be impacted directly or indirectly
- Insufficient improvement is achieved during the review period established at the first Attendance Monitoring Review.
- To discuss reasonable adjustments and support

15.4 Modification of these triggers can be considered when reviewing an individual's personal circumstances related to disability (see Appendix 2)

## 16. Attendance Monitoring Review

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- 16.1 Attendance Monitoring Reviews (AMRs) are formal meetings to discuss absence which has become a cause for concern, reasonable adjustments, medical reports or other matters which directly or indirectly impact the attendance of an employee.
- 16.2 During long term sickness absence (including absence related to a disability) AMRs are to be arranged every four weeks, with respect for the employee's privacy and particular medical/personal needs in mind.
- 16.3 An invite to an AMR must be in writing, setting out the date, time location and must point out that the employee may be accompanied by relative, friend, colleague or union representative. If the representative cannot attend on the proposed date for a meeting, an alternative representative should be nominated or the meeting re-arranged to a time and date which is no more than 5 working days after the proposed date.
- 16.4 It is the responsibility of individual employees to arrange representation and if this cannot be arranged within the timescales set out above, and there are no extraordinary or mitigating circumstances, then the manager should proceed with the scheduled meeting. Where there are extenuating circumstances preventing or unreasonably delays in respect of an AMR, managers should seek advice from the relevant HROD representative. Additionally, where an employee has failed to attend an AMR, and cannot be contacted the manager should contact the HROD service for advice.
- 16.5 The AMR should be held somewhere private and should have been scheduled in with enough time to discuss the issues at hand. During the AMR the manager/supervisor will:
- Explore reasons for absence or insufficient improvement
  - Identify any work related or personal issues that the employee may have which is impacting on their attendance
  - Explain the impact of absence on service delivery and emphasise the importance of good attendance
  - Review issues discussed at the previous Attendance Monitoring Reviews
  - Review the overall level of absence
  - Review any medical advice
  - Review support/reasonable adjustments provided
  - Identify improvement needed
  - Warn of possible consequences if improvement is not achieved
- 16.6 The manager will write to the employee within ten working days of the meeting, confirming the points discussed and actions identified. It is important to implement any actions identified as soon as possible and relevant persons/departments are notified of any resulting actions/modifications and adjustments i.e. to triggers, core working hours etc.
- 16.7 Contact made with the employee during and after their sickness absence should be recorded and stored securely and confidentially be shared with the employee on their return to work. The manager should complete the relevant AMR form online.

**N.B. Additional meetings (which must be documented) can be held at any stage, with any employee, outside of the formal Attendance Monitoring Review meetings, to discuss support mechanisms etc.**

## **17. Attendance Management Hearing**

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- 17.1 An Attendance Management Hearing (AMH) is a formal procedure which takes place when there has been no improvement in an employee's attendance despite the employee progressing through the various stages within the Managing Attendance Policy.
- 17.2 The hearing will be chaired by an appropriate manager from the employee's service, who will listen to/read the notes/documents relating to the case. They will also listen to representations from employees or their representatives and representations from the relevant manager.
- 17.3 Once all evidence, documents, witnesses and presentations have been considered, the senior manager is responsible for deciding how to progress. Any representation made by the employee or the employee's representative, or any written submission made in the employee's absence will be given due consideration before any decision is taken.
- 17.4 Employees may be represented, by a trade union representative, friend or colleague at an AMH. If the chosen representative cannot attend on a proposed date, an alternative representative should be nominated or the AMH re-arranged to a time and date which is normally no more than 5 working days after the proposed initial date.
- 17.5 It is the responsibility of the individual employee to arrange representation and if this cannot be arranged within the timescales set out above, and there are no extraordinary or mitigating circumstances, then the manager should proceed with the scheduled meeting.
- 17.6 The employee and his/her representative will, no later than 10 working days before the hearing, be informed in writing of the date, time and venue of the hearing. The letter will set out the detailed reasons for the hearing and copies of any documentation relied upon will be circulated with the written notification of the hearing. Additionally, the written notification should caution the employee that the hearing might result in a decision to dismiss with notice.
- 17.7 The manager should always aim to ensure there are no unreasonable delays or changes to scheduled hearing dates. However there will be occasions where delay is unavoidable, such as the availability of witnesses. Should a hearing date be delayed or rescheduled for any reason the employee will be kept fully up to date and a hearing date set for as soon as is reasonably possible given the relevant circumstances.
- 17.8 The management case will be presented to the hearing officer together with all documents relevant to the employee's health and attendance. Any representation made by the employee or the employee's representative, or any written submission made in the employee's absence will be given due consideration before any decision is taken.
- 17.9 The hearing officer will consider
  - The employee's overall absence record

- The impact of the level of absences on the service
- Representations from the employee
- Whether the reason for the absence(s) falls within the provisions of the Equality Act 2010
- The management of the case
- The medical advice received
- The support/reasonable adjustments provided
- Any further action that can be taken
- Options for redeployment on medical grounds
- Whether ill health retirement has been considered

#### 17.10 Possible Outcomes of an AMH

- Further medical evidence sought
- Consideration of further reasonable adjustments
- Consideration of alternative employment
- Further Attendance Management Warning issued with further review period established
- Dismissal with notice

17.11 The hearing officer write to the employee within 10 working days of the meeting, confirming the points discussed and actions identified and, if a further Attendance Management Warning or dismissal is the outcome, informing him/her of the right to appeal.

## 18. Alternative Roles

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- 18.1 *m people* is the facility available to the Council to enable the flexible movement of staff within the organisation. It allows employees to expand their skills and to help the organisation with service provision.
- 18.2 Finding an employee an alternative role will only be considered where it is necessary for medical reasons in instances of long term sickness and disability related absence. However, the initial search for an alternative role should be explored within the service and/or Directorate prior to considering a move across the authority.
- 18.3 Employees must be aware that there may be occasions where alternative roles can not be sourced or would not be adequate. In those instances, where relevant, ill health retirement will be considered or ultimately dismissal with notice.

## 19. Ill Health Retirement

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- 19.1 Retirement on the grounds of ill health can only be considered after all other options have been exhausted, where an individual's employment has been terminated on the grounds of ill health (see below) and where an independent registered medical practitioner, qualified in Occupational Health medicine, determines that an employee meets the criteria for ill health retirement, in accordance with the Local Government Pension Scheme Regulations.

19.2 Regulations 35 and 36 of the LGPS Regulations 2013 (the '2014 Scheme') require that, for there to be entitlement to an ill-health retirement pension:

- the employer has to terminate the member's employment on the grounds of ill-health or infirmity of mind or body before the member's Normal Pension Age: and
- before deciding whether the member meets the conditions for an ill-health retirement pension and, if so, which Tier of benefit to award, the employer must obtain a certificate from an Independent Registered Practitioner (IRMP) who has been approved by the administering authority.

19.3 The following criteria has to be satisfied before an ill health retirement can take place:

- The member's employment must be terminated by the employer on the grounds of ill health or infirmity of mind or body.
- At the date of termination the member must be under their Normal Pension Age in the 2014 scheme.
- At the date of termination the member must have met 2 years qualifying service in the LGPS.
- The member must, as a result of ill health or infirmity of mind or body, be permanently incapable of discharging efficiently the duties of the employment the member was engaged in and
- The member, as a result of ill health or infirmity of mind or body, must not be immediately capable of undertaking any gainful employment.

Gainful employment is defined as paid employment for not less than 30 hours in each week for a period of not less than 12 months.

19.4 Where ill health retirement is an option because an employee is deemed to be permanently incapable of doing their job, one of three tiers of benefit can be awarded. Each tier looks at the employee's capacity to carry out gainful employment in the future.

19.5 An IRMP, who has had no previous dealings with the case, will be engaged by the Occupational Health provider to carry out an IHR assessment.

19.6 All IHR referrals to the Occupational Health provider will be channelled through HROD. Submissions to the IRMP will include the employee's role profile, previous medical reports including Occupational Health reports and details of the level and frequency of sickness absences. Further guidance is available on the HROD intranet pages.

19.7 Regulations dictate that employment must be terminated prior to any pension being accessed and that the employment decision and the pension decision are made as separate decisions. In general, the employment decision regarding dismissal and the pension decision (IHR) should be made concurrently where possible. For further information on Ill Health Retirement, please see the HROD internet pages which provides guidance around IRH and links to the relevant policy.

## **20. Dismissal**

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20.1 Where all appropriate options have been explored, including all options under the provisions of the Equality Act, the dismissal of an employee is one which will need to be considered.

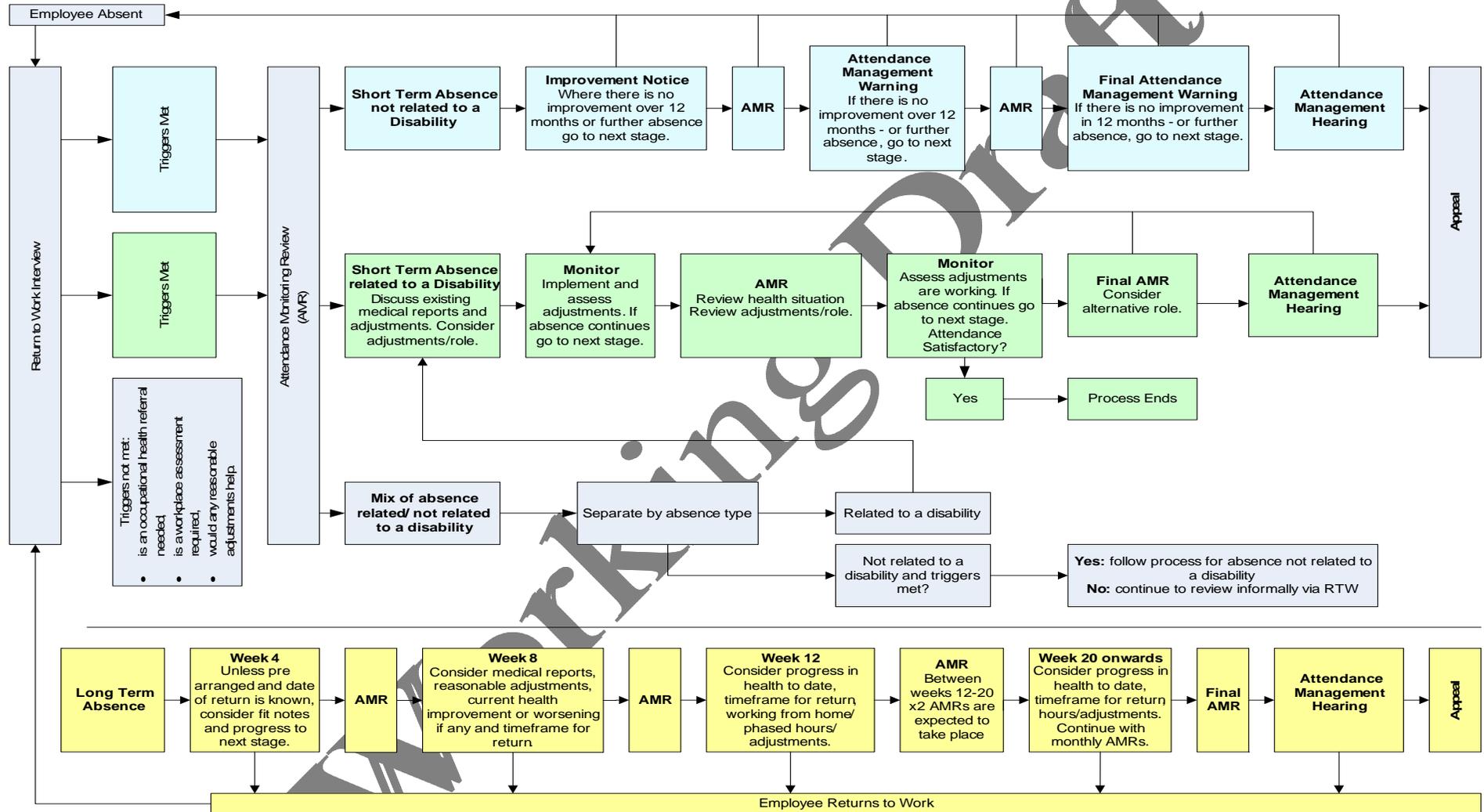
- 20.2 To dismiss fairly the employer has to show:
- A fair reason (or the principal reason) for dismissal
  - That, in the circumstances, the employer acted reasonably and fairly
- 20.3 Where the decision to dismiss is made, the dismissal will be with appropriate contractual notice. In cases of dismissal with notice, the employee will have the right to appeal to their Strategic Director (or their nominee). This will constitute a full rehearing of the Attendance Management Hearing.
- 20.4 Should the dismissal be upheld at first stage appeal, there will be a further right of appeal to Elected Members.

## **21. Conduct Issues/Failure to Follow Procedure**

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- 21.1 Conduct issues and failure to comply with the provisions of the Managing Attendance Policy and Procedure, could include:
- providing false information
  - failing to comply with the reporting procedure
  - failing to attend medical appointments
  - failing to provide a copy of Fit notes when due will be subject to a separate investigation. Where it is believed that the policy has been breached disciplinary action (up to and including summary dismissal) may be taken under the City Council's Disciplinary Procedure.
- 21.2 Where any doubts exist with regard to the reasons for absence, or if further issues arise from the Return to Work interview which require investigation this should be highlighted to the employee. If necessary, a separate interview should be convened as part of the Disciplinary Procedure.
- 21.3 Where an employee fails to follow the notification/verification procedure, the manager must inform the employee that they have not followed the procedure and warn them that any further breaches could result in loss of pay and/or disciplinary action.
- 21.4 Managers must ensure that the employee is given a copy of the procedure and that this is recorded on the return to work form.
- 21.5 Failure to comply may also lead to the loss or suspension of pay where an investigation establishes that the requirements of the Managing Attendance procedure have not been followed no has the employee taken steps to comply with the procedure.

APPENDIX 1



## APPENDIX 2

### EQUALITY ACT 2010

The Equality Act 2010 prohibits an employer from discriminating against an employee by dismissing or otherwise treating that employee less favorably because of his or her disability or for a reason arising out of their disability. There are few situations where discrimination can be justified under the Act.

Dismissal will hardly ever be justified unless an employer has obtained a detailed medical examination of the employee, to determine the full extent of the disability, in order to decide whether any reasonable adjustments are an alternative to dismissal. The Public Sector Equality Duty 2011 places a duty on all public authorities to promote equality for disabled people in every area of their work.

### DEFINITION OF DISABILITY

A person has a disability for the purposes of the Equality Act if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The impairment must be long term i.e. has lasted or likely to last at least 12 months. For further guidance access the following link <https://www.gov.uk/definition-of-disability-under-equality-act-2010>.

### REASONABLE ADJUSTMENTS

When a disability is identified, in accordance with the Equality Act, an employer has a duty to make reasonable adjustments to prevent disabled employees being placed at a disadvantage compared with staff who are not disabled.

The social model of disability reflects that, rather than the physical/medical limitations of an impairment, it is often environmental factors which unnecessarily lead to social restrictions. This principle underpins the duty to make reasonable adjustments and understanding this assists in avoiding discrimination. It is as important to consider which aspects of employment and occupation create barriers for a disabled person as it is to understand the particular nature of an individual's disability.

Some examples of reasonable adjustments are

- modifying the triggers when reviewing an employee's record of absence
- adjusting working arrangements
- altering working hours
- changing work location
- changing duties
- reallocating tasks
- making adjustments to physical environment/premises
- acquiring or modifying equipment
- providing appropriate training
- modifying instructions or reference manuals
- providing supervision
- allowing authorised absence for medical appointments, assessment, treatment, counselling or rehabilitation activities.

A reasonable adjustment may also involve transferring the employee to fill a suitable existing vacant post. It will be necessary to obtain advice from Occupational Health regarding the tasks which the employee is capable of undertaking and in all such cases advice must also be sought from HROD. All decisions taken with regard to determining whether an adjustment is reasonable or not, as outlined in the Equality Act's criteria, must be documented. The rationale for reaching such decisions should also be documented.

It will not always be necessary for managers to seek authorisation from HROD/Occupational Health on potential adjustments. Managers should consider the benefits of practical and common sense approaches such as that outlined in the following example:

*Roy has a mental health condition and is planning to transition to a new medication which for the first week may have some adverse side effects. Due to a previous in-depth return to work interview, Roy's manager is aware of his condition and that it meets the Equality Act definition of disability. He is also aware of the initial potential side effects of the new medication. In preparation for the transition to new medication Roy's manager arranges for him to take disability related special leave to allow Roy to adjust to his medication. He also makes adjustments to Roy's core hours for a period of 4 weeks so Roy can arrive slightly later in the day as the medication Roy now takes can make him drowsy in the mornings in the first month.*

The manager above made a pro-active effort to ensure he was familiar with the employee's condition and understood the options available to him via MCC policy. This approach prevented delays and worked for Roy, his team and the service. The Council expects all managers to address employees in a similar pro active and supportive manner.

## **ABSENCE AND DISABILITY**

Long term absences can often be the result of a disability and ensuring the underlying causes of long term absence have been established is essential before considering next steps.

Employees who have had reoccurring short bouts of absence but who have not disclosed a disability should be encouraged to discuss underlying health issues during RTWIs or AMRs. Occupational health reports to establish underlying causes of regular short term absence may reveal illness directly or indirectly linked to absence.

Where an employee has periodic short term absence and a manager suspects there may be a disability causing absence, occupational health reports should be requested and considered. This will enable the support mechanisms to be discussed and put into place.

All referrals made to Occupational Health, irrespective of whether absence has occurred or the length of any absence will be given consideration in relation to the Equality Act. Wherever possible the Occupational Health Unit will indicate whether the provisions of the Equality Act apply. Managers will be informed of the medical opinion, on the basis of the information available at that time, in the Response Form.

## **DISMISSAL**

The dismissal of a disabled employee, on the grounds of his or her disability, or subjecting an employee to any other detriment on the grounds of his or her disability is unlawful under the Equality Act. However, where an employee's disability makes it impossible for him/her to perform the main functions of their job, and all reasonable adjustments have been fully explored, termination of employment can be justified.

In addition to considering whether suitable alternative employment is available the case must be referred to Occupational Health for the consideration of ill health retirement.

In all cases a HROD Adviser must be consulted before starting the dismissal process.