

**Manchester City Council
Report for Resolution**

Report to: Personnel Committee – 11 January 2017

Subject: Managing Attendance – Support for Employees with Terminal Illness

Report of: Deputy Chief Executive (People, Policy and Reform)

Summary

The report sets out a proposed revision to the Managing Attendance policy to enhance the organisation’s approach to supporting employees diagnosed with a terminal illness and helping employees to understand this provision. This revision seeks to ensure clarity for managers supporting employees in these circumstances.

Recommendations

The Committee is recommended to approve a revised Managing Attendance Policy.

Wards Affected: All

Manchester Strategy outcomes	Summary of the contribution to the strategy
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	By offering a flexible and understanding approach to terminally ill staff, this policy assists managers to support and retain the right people with the right skills to deliver ‘Our Manchester’.
A highly skilled City: world class and home grown talent sustaining the City’s economic success	Using a flexible and adaptable approach to support employees with terminal conditions evidences that the Council is an equitable employer and values the contribution that can be made by employees living within our communities with a terminal diagnosis.
A progressive and equitable City: making a positive contribution by unlocking the potential of our communities	This is a progressive approach to recognising the potential and determination shown by terminally ill employees who wish to continue to work during.
A liveable and low carbon City: a destination of choice to live, visit, work	
A connected City: world class infrastructure and connectivity to drive growth	

Full details are in the body of the report, along with any implications for

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

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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.

- The revised Managing Attendance Policy (once formally adopted, this will replace the existing Managing Attendance Policy approved by Personnel Committee at its meeting in June 2016).

1. INTRODUCTION

- 1.1 This report sets out a proposed revision to the Council's Managing Attendance Policy. The purpose of this change is to codify the Council's existing practice in this area so that the policy explicitly sets out how staff who are diagnosed with a terminal illness will be treated with dignity and that the Council will make adjustments to ensure that such staff are able to stay in work as long as they wish. The current policy does not explicitly refer to terminal illness, therefore this inclusion will provide re-assurance to employees who unfortunately fall into this category and provide clarity for managers.
- 1.2 This revision to the Managing Attendance Policy reflects the Council's support for the TUC's Dying to Work Campaign, which seeks to raise awareness of the difficulties encountered by employees who are diagnosed with a terminal illness, and responds to representations from GMB requesting that the Council formally revises its Managing Attendance Policy in this area.
- 1.3 Subject to approval, the revised policy which accompanies this report (amendments underlined) will come into effect immediately and be updated on the relevant intranet pages.

2. MANAGING ATTENDANCE POLICY

2.1 Context

- 2.1.1 The current Managing Attendance policy was developed in January 2016 and agreed by Personnel Committee in June 2016. Whilst the principles established in that document are still sound, clarifying and endorsing the Council's existing approach to terminal illness within the policy document and its accompanying guidance would provide assurance to terminally ill employees during what is a particularly distressing time for all involved.
- 2.1.2 Additionally, incorporating specific wording around terminal illness aligns with current practice around equal opportunities for the workforce and supports legal requirements around equality. Clear provisions to support terminally ill employees who require adjustments to their working environment reduces barriers and prevents discrimination. A paragraph will be included in the revised policy as 13.3 the content of this is detailed below:

The Council will treat employees diagnosed with a terminal illness with dignity and respect. The Council will endeavor to provide support to terminally ill employees and to make adjustments where necessary, to assist those employees who would like to remain in work, and are deemed medically capable to do so. Long term/Short Term absence associated with terminal illness will be addressed via absence processes at Parts 11 and 12.

3. Main Changes

- 3.1 The revised Managing Attendance Policy, if agreed, will supersede the existing Managing Attendance Policy dated 1 June 2016.

- 3.2 The main changes in the revised policy and the associated guidance are as follows:
- Incorporation of a paragraph at Part 13 which makes clear reference to terminal illness
 - Clarification within the above paragraph that adjustments and support will be provided to terminally ill employees who would like to remain in work should they be considered medically able to do so.
 - Clarification that long term/short term absence related to terminal illness, will be managed via the processes outlined in Parts 11 and 12 which address disability/adjustments/alternative role considerations etc.
 - Links will be provided to relevant guidance and support sites via the intranet and updates will be made to accompanying frequently asked questions.

4. RESOURCE IMPLICATIONS

- 4.1 A flexible approach to staffing and organisation may be required from management teams to make adjustments to individual work patterns / duties or to accommodate time off for necessary treatment regimes.

5. IMPLEMENTATION

- 5.1 It is intended that the revised Managing Attendance Policy comes into immediate effect, subject to approval by Personnel Committee.
- 5.2 Additional information will be made available on the intranet to support the revised policy as below.
- Signposting Information detailing contact information for agencies providing support, help and advice and links to Equality Act information, ACAS guidance etc.
 - Links to related internal services and relevant policies/guidance will be added for the benefit of employees and managers e.g. Health and Safety, Occupational Health, Health and Wellbeing pages etc.

6. TRADE UNION COMMENTS

- 6.1 UNISON welcomes the additions to the Management of Attendance Policy to explicitly state the support available to employees who are terminally ill. We believe it will provide additional reassurance to employees and their families at the most difficult of times.
- 6.2 UNITE and GMB support the proposed changes outlined within this report.

Managing Attendance Policy

Employee Relations Team
HROD
July 2016

Document Control

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1. Introduction

- 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

- 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 maintain good 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
 - Emphasising a respect for confidentiality
 - Making reasonable adjustments to take account of the needs of 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 staff employed by schools who may be covered by separate terms and conditions relating to their employment.
- 2.4 This policy is written in accordance 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

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 necessarily 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 requirements
- 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 health and wellbeing.

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 GPs 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

- 4.1 The Council seeks to support and encourage employees to take responsibility for their own health and wellbeing and in doing so, promotes the general health and wellbeing of its employees.
- 4.2 The Council recognises that mental health is a significant cause of absence and acknowledges 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, web sites, a calendar of regular events across the Council such as fitness classes and running groups and information on the cycle purchase scheme.

- 4.4 The Council also provides regular internal information on health in order to encourage employees to keep well at work.
- 4.5 In addition to health and wellbeing initiatives, the Council encourages a healthy 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

- 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 Part 21).

6. Verifying Sickness Absence

- 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 Where an employee wishes to return to work prior to the expiry of a fit note, they 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 on their 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 MiTeam records in a timely manner
- Retain a copy of the original and any subsequent fit notes
- Make a note of the key points of any discussion or actions agreed
- Retain Return to Work forms.

7. Maintaining Contact during Sickness Absence

- 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 with an employee will be maintained via Attendance Monitoring Reviews undertaken face to face every 4 weeks (see Part 16 and flowchart at Appendix 1).

8. Sickness Absence Recording

- 8.1 Each period of absence will need to be formally and accurately recorded electronically as 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 Interview 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 MiTeam, 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 ensure that issues raised by the employee/manager are followed up or dealt with in a timely way. A period of absence may be a one-off incident or it may be the beginning of an episode that the employee may require further 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 being held (see Parts 14 and 16).
- 8.6 Managers are responsible for storing records of meetings 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 policy and legislation.
- 8.7 The sharing or copying of information related to absence or sickness must be undertaken in accordance with relevant information security and Data Protection legislation. Where a

manager is unsure whether information/records can be copied, shared or transferred, advice should be sought from HROD in the first instance.

9. Sickness Absence and Annual Leave

- 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 the relevant days are recorded as sickness absence and to take those days as annual leave at another time when they are well.

10. Dealing with Short Term Sickness Absence (not related to a disability)

- 10.1 Short term sickness absences commonly occur due to seasonal flu, viruses, food poisoning, winter vomiting etc. 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 employee's return (see Part 14).
- 10.3 Where an employee has regular short term absences managers must consider underlying issues and referral to Occupational Health to consider potential external causes. Where absence becomes a cause for concern or hits trigger levels (see Part 15), managers may invite the employee to attend an Attendance Monitoring Review (see Part 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 issued by a manager to an employee which outlines the improvements needed/identified at an Attendance Monitoring Review.
- 10.6 Improvement Notices are not to be issued for disability or pregnancy related sickness absence.
- 10.7 An Improvement Notice document will explain clearly 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.
- 10.8 An Improvement Notice issued under the Managing Attendance Policy will remain live for 12 months and run parallel to any disciplinary warnings (the Improvement Notice cannot be extended beyond 12 months). Notices will not be used for 'totting up' purposes should any disciplinary sanction be imposed under the Council's Disciplinary Procedure.

- 10.9 Should an Improvement Notice be issued, the employee will have the right to appeal to a nominated Second Tier Officer (or their representative) within 10 working days of the confirmation letter being received.
- 10.10 Where an Improvement Notice has not been sufficient to change behaviours and absence continues (which is not related to a disability) managers may progress to an Attendance Management Warning.

Attendance Management Warning

- 10.11 An Attendance Management Warning (AMW) is a formal written 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 there has been no satisfactory improvement after a First AMW is issued.
- 10.12 AMWs are not to be issued for disability or pregnancy related sickness absence.
- 10.13 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) and a Final AMW may be issued.
- 10.14 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.
- 10.15 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) within 10 working days of the confirmation letter being received.
- 10.16 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.
- 10.17 Managers should therefore ensure that the Final AMW confirmation letter to the employee, clearly sets out that failure to improve/continued unsatisfactory attendance will result in progression to an Attendance Management Hearing.

11. Dealing with Short Term Sickness Absence (related to a disability)

- 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"*.
- 11.2 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>.
- 11.3 Managers must be proactive in identifying when disabled staff will be likely to require periods of absence related to their disability and where possible facilitate through appropriate means, i.e. through short term adjustments to working patterns or utilising the "Disability Related Special Leave" (DSL) within the Special Leave Provisions i.e. for medication adjustments, appointments etc, see Appendix 2. For further details of the Special Leave Provisions related to disability please see Appendix 3.
- 11.4 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 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.

Reasonable Adjustments

- 11.5 Where disability related absence (long or short term) occurs, the focus will be to ensure that the employee receives the required support. It is imperative that managers ensure that reasonable adjustments are identified, put into place in a timely manner and assessed for effectiveness.
- 11.6 Adjustments/support proposed by either the employee, his/her GP or Occupational Health should be recorded. Due consideration should be given to the requests and a determination given with regards to what can and cannot be implemented and why.
- 11.7 Where it is the view of a manager or service that a proposed adjustment cannot be made the relevant manager 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 and his or her representative should be informed accordingly. Any representations made by the employee regarding this should be given due consideration.
- 11.8 To ensure adjustments/support are put into place in a timely manner and are effective, a monitoring period and subsequent AMRs where needed will be undertaken. A flowchart outlining the process can be found at Appendix 1.

Monitoring Periods

- 11.6 Monitoring periods provide a timeframe in which managers implement and assess the effectiveness of adjustments/support provided to an employee to enable them to carry out their role. Once the nature of the adjustments or support required has been identified, considered and agreed, the process of arranging and implementation should normally take no longer than 4 weeks. Once implemented (dependent on the type of support or adjustment) the timeframe for assessing their effectiveness may vary.
- 11.7 Where it is the view of a manager or service that an adjustment is not effective the relevant manager should seek advice from HROD in the first instance, this should be recorded with the reasons why, and the employee and his or her representative should be informed accordingly. Any representations made by the employee regarding this should be given due consideration.
- 11.8 Employees must note that there will be occasions where adjustments may not be sufficient to accommodate their needs or restrictions. Where this occurs, every effort will be made to locate a suitable alternative role via **m people**.
- 11.9 Where a manager feels there has been a sufficient period of monitoring and they have assessed (with the input of the employee) whether the adjustment or support measures are effective, they will invite the employee to an Attendance Monitoring Review (see Part 16) to confirm this with the employee and bring the monitoring period to an end.
- 11.10 Where an employee's absence continues to be a cause for concern, the manager may invite the employee to attend an Attendance Monitoring Review to establish the cause of absence and the options that are available to provide further or alternative support for the employee.
- 11.11 Where reasonable adjustments have been implemented and assessed, Occupational Health advice has been given and there is still concern surrounding attendance, consideration will be given to progression to an Attendance Management Hearing (see Part 17 and Appendix 1).

N.B.: 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 2010. However, where an employee's disability makes it impossible for him or her to perform the main functions of their role, 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)

- 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 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 must be proactive in identifying when disabled staff will be likely to require periods of absence related to their disability and where possible facilitate through appropriate means, i.e. through short term adjustments to working patterns or utilising the "Disability Related Special Leave" (DSL) within the Special Leave Provisions which can be applied for medication adjustments, appointments etc, see Appendix 2. For further details of the Special Leave Provisions related to disability please see Appendix 3.
- 12.3 A flow chart is available at Appendix 1 which outlines a guide timetable for managing long term sickness absence. This timeframe is not prescriptive: the aim is to encourage managers to be proactive in maintaining contact, providing support and assessing the needs of employees to facilitate a successful return to work.
- 12.4 Managers are responsible for keeping in contact with an employee who is absent long term via monthly Attendance Monitoring Reviews (see Part 16). In addition, employees have a responsibility to facilitate contact where required during their absence period to allow managers to arrange and undertake Attendance Monitoring Reviews and to allow managers to be kept informed of the employees wellbeing.
- 12.5 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 the service.
- 12.6 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 Part 11, should be established to ensure timely implementation and assessment of adjustments.
- 12.7 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 an alternative role where possible.
- 12.8 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 Part 17 and Appendix 1).

13. Other Types of Absence

13.1 Accidents or injuries at work

All accidents should be reported as soon as possible by managers to the Health and Safety Advice Line on 234 1897. A Safety Officer will be available to take the details and provide any further advice and assistance that may be required. The advice line is staffed Monday to Friday 8.30am until 5.00pm

On reporting an accident the manager will be given a unique reference number that should be filled in on both the Accident Report Form and Investigation Report Form.

Managers should fully investigate each accident/ incident and record the findings by completing both the Accident Report Form and the Accident Investigation Report Form. Managers should keep the original copies and either email copies to the Health & Safety Team on health.and.safety@manchester.gov.uk or Fax to 0161 276 7615.

Where an employee reports that their absence is due to an injury or accident at work, there will be a requirement for the manager to communicate with Health and Safety as above, complete and update any relevant incident records, investigate any incidents that may have happened and fill in the relevant reports.

Employees must report any accidents at work as soon as is practicable and where required, provide documentation to verify any injury or accident at work as per the verification process at Part 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). Further information can be found on the Health and Safety Intranet pages.

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 that may be damaging to a pregnant woman or her unborn child. Any assessment should be carried out in consultation with the employee.

Where a period of sickness 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. 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 give consideration to adjustments suggested by an employee's midwife, GP or health professional to facilitate the employee to undertake their day to day duties. Due consideration should be given to all of these and a determination given with regards to what can and cannot be implemented and why.

Where it is the view of a manager or service that a proposed adjustment cannot be made or an adjustment is not effective the relevant manager 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 and his or her representative should be informed accordingly. Any representations made by the employee regarding this should be given due consideration.

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 should ask the employee to start their maternity leave. Further information can be found on the HROD intranet pages.

13.3 Absence related to terminal illness

The Council will treat employees diagnosed with a terminal illness with dignity and respect. The Council will endeavor to provide support to terminally ill employees and to make adjustments where necessary, to assist those employees who would like to remain in work, and are deemed medically capable to do so. Long term/Short Term absence associated with terminal illness will be addressed via absence processes at Parts 11 and 12.

14. Return to Work Interview

- 14.1 A Return to Work Interview (**RTW**) is the first opportunity a manager has to meet with the employee after a period of absence. This meeting should be used to:
- Ensure the employee is fit to be back at work
 - Discuss the reasons for absence
 - Provide updates on work issues
 - Decide if a referral 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 the RTW. The RTW should be held where possible by the manager of the employee.
- 14.3 Conversations during a RTW 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 RTW 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, 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 RTW form.
- 14.6 At the end of a RTW 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

- 15.1 The following triggers will prompt a manager to examine an employee's absence record and request an employee to 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 Modification of these triggers can be considered when reviewing an individual's personal circumstances related to disability (see Appendix 2).

- 15.4 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 Management 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
 - In order to discuss reasonable adjustments and support

16. Attendance Monitoring Review

- 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 keeping their particular medical/personal needs in mind.
- 16.3 An invite to an AMR must be in writing, with the letter setting out the date, time and location, and it must state that the employee has the right to be accompanied by a Trade Union representative, colleague, relative or friend. 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 or unreasonable delays preventing 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 enough time should be scheduled 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 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 Possible outcomes of an AMR include but are not limited to:
- Identification of improvement needed or no satisfactory improvement and relevant level of Attendance Management Warning issued
 - Referral to Occupational Health to:

- Assess current medical condition
- Establish if reason for absence falls within the provisions of the Equality Act 2010 and provide recommendations for any adjustments or support
- Establishing, extending or finalising a Monitoring Period
- Establishing a review period
- No further action taken.

- 16.7 The manager will write to the employee within 10 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.
- 16.8 Contact made with the employee during and after their sickness absence should be recorded, stored securely and be shared confidentially 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

- 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 made.
- 17.4 Employees may be represented by a Trade Union representative, colleague relative or friend at an AMH. If the chosen representative cannot attend on a proposed date, an alternative representative should be nominated or the AMH rearranged 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 may 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 include:
- 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 will write to the employee within 10 working days of the hearing, 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

- 18.1 ***m people*** is the mechanism available to the Council enabling the flexible movement of staff within the organisation. It allows employees to expand their skills and helps the organisation with service provision.
- 18.2 Finding an employee an alternative role via ***m people*** will only be considered where it is necessary for medical reasons, in instances of long term sickness and disability related absence, and recommended by Occupational Health. 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 suitable. In those instances, where relevant, ill health retirement will be considered or ultimately dismissal with notice.

19. Ill Health Retirement

- 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 Medical Practitioner (IRMP) who has been approved by the administering authority.
- 19.3 The following criteria need 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.
- 19.8 For further information on Ill Health Retirement, please see the HROD internet pages which provide guidance around IRH and links to the relevant policy.

20. Dismissal

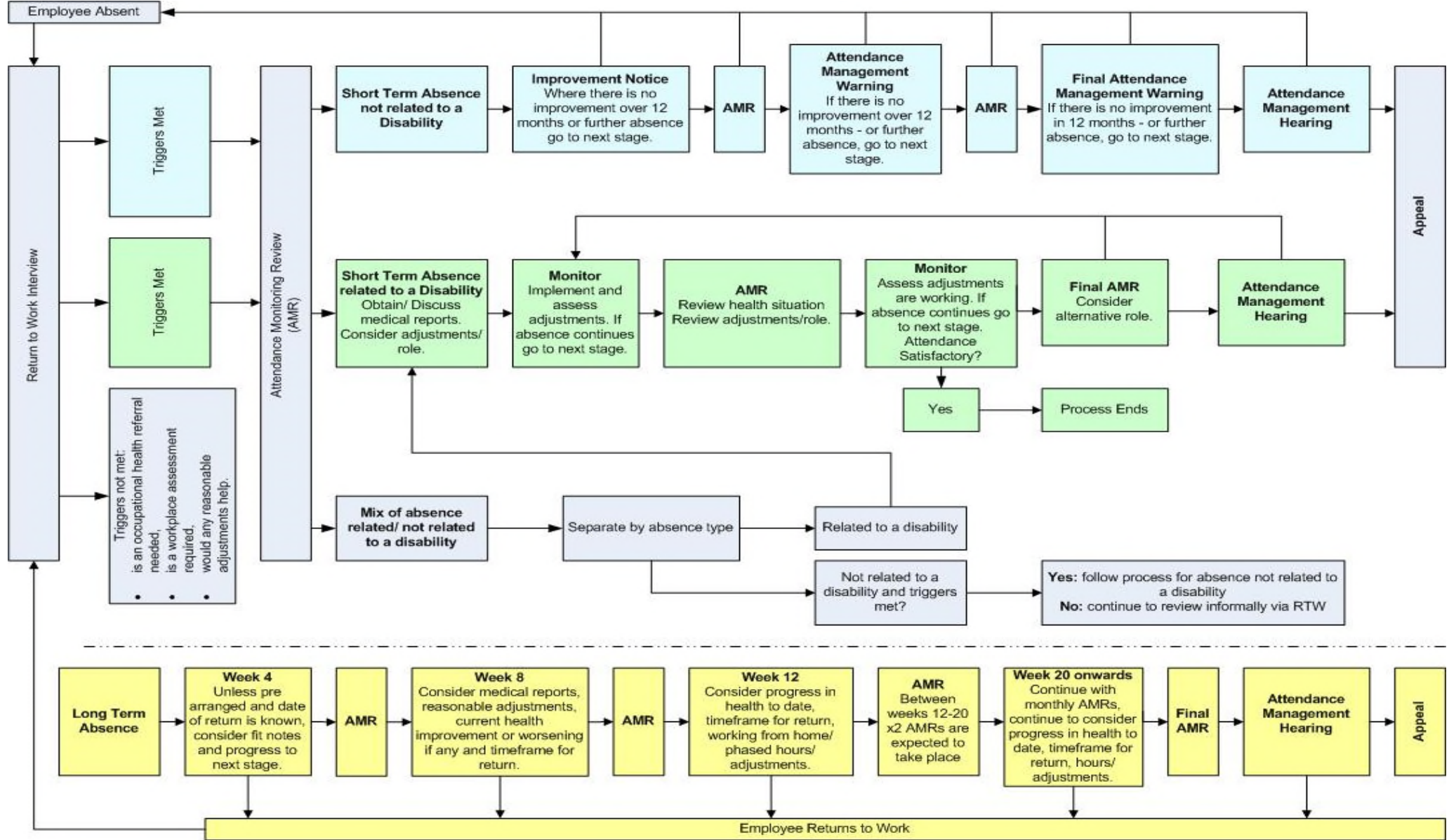
- 20.1 Where all appropriate options have been explored, including options under the provisions of the Equality Act, the dismissal of an employee will need to be considered.
- 20.2 To dismiss fairly the employer has to show:
- A fair reason (or the principal reason) for dismissal
 - That, in the circumstances, 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, 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

- 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/requested.
- 21.2 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. Managers must also ensure that the employee is given a copy of the procedure and that this is recorded on the Return to Work form.
- 21.3 Where any doubts exist with regard to the reasons for absence, or if further issues arise during 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.
- 21.4 Failure to comply with the policy may lead to the loss or suspension of pay where an investigation establishes that the requirements of the Managing Attendance procedure have not been followed nor has the employee taken steps to comply with the procedure.
- 21.5 Where it is believed that the policy has been breached, disciplinary action (up to and including summary dismissal) may be taken under the Council's Disciplinary 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. Under the Equality Act, the Public Sector Equality Duty 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 limitations which 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 and/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 or 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.

Appendix 3

Disability Related Special Leave

Disability Related Special Leave is a mechanism to support disabled employees who need to be absent during working hours for hospital appointments, rehabilitation, physiotherapy, assessments or treatment. Disability Related Special leave is a reasonable adjustment under the provisions of the Equality Act 2010 and the Public Sector Equality Duty and is aimed at enabling disabled employees to attend work and sustain long term employment.

A manager receiving an application for Disability Related Special Leave will pay due regard to confidentiality and sensitivity in relation to the employee's self declaration of a disability or impairment.

Wherever possible, agreement will be reached in advance in respect of the amount of Disability Related Special Leave to be granted.

Some examples of reasons for granting Disability Related Special Leave include (but are not limited to):

- Hospital or doctor appointments
- Hospital treatment as an outpatient
- Assessment (i.e. a professional assessment by a medical practitioner or recognised body, to determine an appropriate course of action, equipment or other appropriate aids)
- Counselling
- Therapeutic treatment
- Physiotherapy
- Rehabilitation
- Adjustment to new medication

The amount of Disability Related Special Leave will be determined by the manager following consideration of the individual's circumstances, the medical advice received (including due regard to the provisions of the Equality Act 2010) and the impact of the absence on operational requirements and service delivery.

Disability Related Special Leave is to be used in specific circumstances as listed above. It is not to be used as a substitute for sickness absence.