

EPHING FOREST DISTRICT COUNCIL

MANAGING ABSENCE PROCEDURE

1. INTRODUCTION

- 1.1 This procedure seeks to establish a positive attendance culture by providing a fair and consistent framework for handling employee absence and promoting occupational health and welfare. It also establishes a standardised process for recording absence and that all absences are accurately recorded.

2. SCOPE

- 2.1 All employees of Epping Forest District Council (EFDC) are covered by this policy. Different arrangements will apply to the Head of Paid Service, the Chief Finance Officer the Monitoring Officer, Deputy Monitoring Officer and Chief Officers if a formal hearing is required, however the principals of the Procedure will apply.

3. PRINCIPLES

- 3.1 It is the policy of Epping Forest District Council to support staff that are unwell and every effort will be made to ensure fair and just treatment of such employees.
- 3.2 Frequent absences from work can have damaging effects both on the immediate work group and on the efficiency and effectiveness of the organisation as a whole. Any action taken to deal with sickness will aim to reduce these effects.
- 3.3 The accrual of benefits under the occupational sick pay scheme does not of itself imply an automatic right to extended or open-ended sickness absence.
- 3.4 Failure to follow the notification or return to work processes disciplinary action may be taken.
- 3.5 All rights and facilities under this procedure shall be made available to all staff regardless of race, colour, ethnic origin, nationality, political or religious beliefs, disability, gender, sexual orientation, age or marital status.
- 3.6 No provision within this procedure shall be seen as inhibiting an employee's right to lodge a complaint under relevant employment legislation.

4. NOTIFICATION

4.1 1st Day of Absence

- 4.1.1 It is the employee's responsibility to telephone their line manager, or a designated person, before their normal starting time or no later than one hour after normal starting time to explain why they are absent, their expected return date and whether they have taken or need to take medical advice.
- 4.1.2 Where employees work on a shift basis and/or cover arrangements are required they must notify their duty manager as early as possible before the shift is due to start.
- 4.1.3 Where employees are unable to notify in person, due to the severity of their illness, a family member or friend must make contact on their behalf.

- 4.1.4 When asking employees about their expected date of return line managers should pose the question sensitively. Employees who are absent due to stress or stress related illnesses should not be pressed unduly into specifying a return date and managers may wish to ask when does their doctor believe they will be fit to return to work.
- 4.1.5 In exceptional circumstances, line managers can ask employees to make contact on each further day of absence, particularly if cover arrangements are required. Line managers must consider whether, in practice, such a requirement is really necessary before making a request of this nature.
- 4.1.6 If the absence is attributable to an injury sustained at work, line managers should ensure that the Council's Safety Officer is notified, preferably by the employee. If this is not possible the line manager is responsible for informing the Safety Officer and ensuring that the accident form is completed.
- 4.1.7 The employee and their line manager, between them, (a designated person can record the notification of absence - RW1 form) shall complete a RW1 and RW2 and forward it to Payroll as soon as possible.
- 4.1.8 Failure to provide notification or the appropriate form may result in the loss or reduction of sick pay.

(Saturdays are considered as a working day).

4.2 **4th Day of Absence**

- 4.2.1 Where they have not stated a date of return on the 1st day of absence, employees are required to telephone their line manager to indicate the reason for their continuing absence, when a return to work is likely and whether medical advice has been taken.
- 4.2.2 Line managers should advise employees whether further contact is required on subsequent days of absence.
- 4.2.3 Employees and their line manager, between them, will be required to complete a RW1 (a designated person can record the notification of absence - RW1 form) and RW2 (the RW2 acts as a self-certification form).
- 4.2.4 Failure to provide notification or the appropriate form may result in the loss or reduction of sick pay. Both the RW1 and RW2 must be forwarded to Payroll as soon as possible.

(Saturdays are considered as a working day).

4.3 **8th Day of Absence**

- 4.3.1 Employees and their manager, between them, will be required to complete a RW1 (a designated person can record the notification of absence - RW1 form) and RW2. Employees must also provide a medical certificate.
- 4.3.2 Failure to provide notification, the appropriate form or medical certificate may result in the loss or reduction of sick pay. The RW1, RW2 and any medical certificates must be forwarded to Payroll as soon as possible.

- 4.3.3 If there is no return to work date specified on the medical certificate or if the absence continues after the stated return date employees must provide further certificates to cover the subsequent absence period.

(Saturdays are considered as a working day).

4.4 RW1 and RW2 Forms

- 4.4.1 Managers should ensure the correct reason for the absence is recorded on the RW1 and RW2 forms. If the reason for the absence changes during the period of absence managers should notify Payroll of the change as soon as possible. Payroll can be notified by e-mail which should contain the effective date of the change.

5. SICKNESS AND ANNUAL LEAVE

- 5.1 Employees who become ill during annual leave and wish to claim back their leave entitlement of 8 days or more they will need to provide a medical certificate before any leave is reimbursed. Employees shall be regarded as being on sick leave from the date of the medical certificate.
- 5.2 Where employees become ill during annual leave and wish to claim back their leave entitlement of 7 days or less they are required to notify their line manager as soon as possible. If it is not possible to have the discussion before/during the intended leave then it must be within 5 working days of the employee's return to work for any reimbursement of leave to take place.
- 5.3 Permission can be obtained to carry forward 5 days annual leave which is to be taken by 31 May in the next leave year.
- 5.4 It is permissible, in cases of long-term absence, for employees to take annual leave during a period of sickness if they obtain the normal permissions for taking annual leave from their line manager.
- 5.5 If it is not possible for an employee who is on long-term absence to take their annual leave during sick leave and they leave the Council or are dismissed they will be paid their outstanding statutory leave. The Council will off-set this payment against any debt the employee may have.
- 5.6 If the employee remains in employment any statutory leave can be carried over to the next annual leave year. Depending on the number of days to carry forward the deadline of 31 May need not apply. Managers are advised to discuss any issues or concerns with HR.
- 5.7 The leave applicable in paras 5.4 and 5.5 is a maximum of 20 days statutory leave, which is provided for by the Working Time Directive. It does not include any additional occupational leave which is any leave entitlement above the 20 statutory leave days. Any outstanding occupational leave will be lost. Statutory leave will always be taken first before any occupational leave.
- 5.8 Statutory leave will be pro-rata for part-time employees.

6. BEREAVEMENT

- 6.1 Bereavement in itself is not an illness and managers should not accept medical certificates which state bereavement as the sole reason for absence. The certificate should be returned to the employee to be amended by their GP. The Council does accept there could be consequences of bereavement such as depression, anxiety or stress.

7. RETURN TO WORK

- 7.1 Managers must ensure that an RW1 and RW2 have been completed and forwarded to Payroll. (See para 4.4 regarding reason for absence).
- 7.2 This procedure requires line managers to carry out a 'Return to Work Meeting' (in some circumstances this will merely be an informal discussion and an opportunity to complete the forms) for all staff on their return to work, even if the absence is only for one day. The meeting should be appropriate to the length and nature of the absence.
- 7.3 If the absence is part of a longer-term pattern or duration line managers may need to approach the meeting differently, particularly if working practices have changed during the period of absence. Line managers will need to exercise judgement and sensitivity in deciding their approach.
- 7.4 Line managers should carry out a Return to Work Meeting on the day the employee resumes working and no later than 3 days following their return.
- 7.5 Before the meeting commences the line manager should ascertain whether the employee wishes it to be conducted on a 'same sex' basis where not to do so would cause the employee embarrassment or some other discomfort related to gender. If the employee wants the meeting to be conducted in this way, and the line manager is of a different gender to the employee, the line manager should ask another manager from the Service to carry it out or a member of Human Resources (HR), who will advise the line manager of the outcome.
- 7.6 If during an interview the line manager decides to refer the matter to the Occupational Health Service (OHS) the reasons should be explained to the employee, clearly and in full.
- 7.7 Whilst on sick leave employees must not engage in any activity that may, in the reasonable opinion of the Council, prejudice or delay their recovery. If an employee is unsure they must seek prior authorisation from their line manager before the proposed activity. Failure to follow this requirement may lead to disciplinary action being taken against them and/or the loss or reduction of sick pay.

8. FREQUENT SHORT-TERM ABSENCES

8.1 Medical Referral

- 8.1.1 Managers should seek OHS advice regarding employees who have frequent short-term absences or if there has been no improvement in their attendance following an evaluation meeting or issue of an action plan.
- 8.1.2 Managers seeking the advice of the OHS must outline the details of the particular case using the Council's Referral Form. HR will ask employees to sign a consent form giving their permission for the OHS to approach their doctor and/or specialist.
- 8.1.2 In seeking such permission managers should inform their employee why an approach is required and advise them that their employment may ultimately be terminated if they are unable to undertake their duties on a regular basis for medical reasons and no suitable alternative employment can be found. Alternatively, Occupational Health may suggest reasonable adjustments which may help the employee's attendance to be acceptable.
- 8.1.3 Employees are not required to complete the medical consent form. However where an employee refuses to give written permission to approach their doctor it may be

necessary to take a decision without the benefit of medical opinion. In such cases HR must be consulted before further action is taken.

- 8.1.4 Managers should be persistent in seeking helpful and clear responses from the OHS. This could be by letter setting out the questions that remain un-answered or require clarification or meeting with the OHS Doctor. Such meetings or conversations should be fully noted and placed on the case file.
- 8.1.5 Managers can request a case conference with the OHS Doctor on more complex cases which can be arranged via HR.
- 8.1.6 All medical information will be treated confidentially, will remain with the OHS during and after the application of the procedure and will form the basis on which advice to the Council is formulated.

8.2 Informal Evaluation Meeting

- 8.2.1 Evaluation Meetings are an informal opportunity for a manager to discuss their initial concerns about an employee's attendance record. An Evaluation Meeting will need to be held if absence reaches the following levels:
 - during any 'rolling' twelve-month period an employee has 5 or more separate occasions of absence
 - during any 'rolling' twelve-month period an employee has had 8 working days of any combination of un/self certificated, or medically certificated absences.
- 8.2.2 Evaluation Meetings may however be held at any time where absence patterns give reasonable cause for concern and there is no need to wait for twelve months before arranging such a meeting.
- 8.2.3 Evaluation Meetings must be handled sensitively, and must be appropriate to the length and nature of the employee's absence.
- 8.2.4 As these meetings are part of the informal process of management there is no need for trade union or other representation.
- 8.2.5 The manager will take notes at the Meeting for their own benefit and they will not be made available to the employee. Employees can make their own notes if they wish.

8.3 Outcomes of Evaluation Meeting

- 8.3.1 The outcome of the Evaluation Meeting, including any requirements placed on the employee will be confirmed in writing by the manager and placed on their personal file. This could take the form of an action plan. (See appendix 1 for the model letter).

8.4 Review Hearing

- 8.4.1 A Review Hearing will need to be held where formal action is required following the informal Evaluation Meeting process where there has been little or no improvement or where there is a poor prognosis for future regular attendance.
- 8.4.2 Each Review Hearing will be formal and as such the employee has the right to be accompanied by a representative of their choice.

9. REVIEW HEARING - PROCEDURAL ARRANGEMENTS

- 9.1 The line manager in conjunction with HR shall be responsible for ensuring that a person of sufficient seniority hears the matter.
- 9.2 Employees should be given 10 working days notice in writing of the time, date and location of the Review Hearing and of their right to be accompanied by a representative of their choice.
- 9.3 With the notification letter the employee shall receive copies of the documents to be presented by management at the Hearing.
- 9.4 Employees must submit any documentation they wish to use at the Hearing, to the manager identified in the notification letter, no later than 3 days prior to the Hearing.

10. PROCESS AT THE HEARING

- 10.1 The Chairman will ensure that the following process applies.
- 10.1.1 The line manager will present their case producing documents as appropriate.
- 10.1.2 The employee and/or their representative will be given the opportunity to respond to these statements and to produce documents in support of their case.
- 10.1.3 Both parties shall withdraw from the hearing while the matter is considered.
- 10.1.4 An appropriate representative shall be present at all formal hearings to advise the Chairman on points of fact, evidence and law. The representative could be from HR, Legal Services or an external advisor.
- 10.1.5 A formal written record of the hearing will be produced, which will not be a verbatim record.

11. NON ATTENDANCE OF THE EMPLOYEE

- 11.1 Where the employee indicates that they will not attend the hearing it may be necessary to conduct the hearing in their absence.
- 11.2 Where the employee's absence is due to ill health a medical certificate must be submitted. The medical certificate should specifically state that the employee is unable to attend the hearing and the reason why. A certificate indicating a general inability to attend work will not be acceptable. If this is not provided, the hearing may proceed in the employee's absence, at the discretion of the Chairman.
- 11.3 One postponement or rearrangement of the hearing will be permitted at the discretion of the Chairman. At the request of the employee, their representative may represent the employee in their absence.

12. OUTCOMES OF REVIEW HEARING

- 12.1 If the management case is proven the Chairman will need to consider the following outcomes:

12.1.1 Redeployment

In accordance with the agreed policy and procedure of the Council an employee could be redeployed into a suitable alternative position.

12.1.2 Written Warning

The employee will be informed that their attendance needs to improve to an acceptable standard within a specified timescale and failure to do so could lead to further formal action.

The outcome of the hearing including the reasons for the decision will be confirmed to the employee within 5 working days and hard copy notes of the hearing will be retained on the employee's personal file. Normally, the warning will remain active for a period of 12 months after the hearing and be disregarded for future formal purposes. However, the Chairman can use their discretion and decide on a longer timescale.

12.1.3 Final Written Warning

A final written warning will be issued in cases of very serious concerns about the employee's level of attendance and/or failure to improve within the specified timescale. They will be informed that failure to improve to an acceptable standard within a specified timescale could result in their dismissal.

The outcome of the hearing including the reasons for the decision will be confirmed to the employee within 5 working days and hard copy notes of the hearing will be retained on the employee's personal file. Normally, the warning will remain active for a period of 2 years after the hearing and be disregarded for future formal purposes. However, the Chairman can use their discretion and decide on a longer timescale.

12.1.4 Dismissal

The Chairman may dismiss the employee with notice. The employee will be entitled to notice in accordance with their contract of employment. Directors and above have the discretion to authorise payment in lieu of notice where this is thought to be of benefit to the employer and/or employee.

- 12.2 Where an employee has had action taken against them and a lapse occurs in their attendance levels within a twelve-month period managers have discretion to take action one stage on from where the procedure ceased previously.

13. APPEALS

- a. Employees who are dissatisfied with any penalty may lodge an appeal with the Assistant Director – Corporate Support Services (HR). This must be done within 5 working days of the employee receiving written confirmation of the decision. The appeal must be in writing and should clearly state the basis on which it is made ie;
 - on the severity of the penalty, or
 - on the findings.
- b. A Director will hear appeals for a penalty short of dismissal or other officer authorised by them. In most cases, the person hearing the appeal will be a manager senior to the person who has taken the decision at the original hearing. Where the Director took such a decision, the Deputy Chief Executive or Chief Executive may hear those appeals. An appropriate representative will be present at all appeals. This representative could be from HR, Legal Services or an external advisor. The employee has the right to be accompanied by a representative of their choice.

- 13.1 Appeals against dismissal will be heard by the Staff Appeals Panel, whose decision will be final. Further guidance can be found in 'Procedure for Staff Appeals Panel Hearings'.

14. LONG-TERM ABSENCES

14.1 Staying in Touch

- 14.1.1 Where employees are absent for an extended period as a result of sickness their line manager should maintain contact in order to provide support, monitor the situation and assess the likely duration of the absence from work. Contact should usually be at least on a weekly basis depending on the case. Notes of any arrangements or support should be kept
- 14.1.2 The manager should arrange to visit the employee at home to discuss their situation within the first 6 weeks of absence. Advice should be sought from HR prior to arranging the visit. A written report of each home visit including any recommendations for future action should be made with a copy sent to HR to place on the employee's personal file.

14.2 Medical Referral

- 14.2.1 Where an employee has been absent from work for at least one month, is unable to estimate when they will be fit to return, or if this is unlikely to be within a reasonable period managers should seek the advice of the Occupational Health Service (OHS) who will normally arrange an appointment with the employee (via HR). In some circumstances the line manager can make a referral before a period of a month has elapsed, especially in cases of depression or stress.
- 14.2.2 Following the appointment the OHS will consider the likelihood of a return to work and if so under what circumstances, the current state of the employee's health, its effect on his/her present or future capability, whether more specialist advice and/or a second referral is required etc and report back to the manager accordingly. This list is not exhaustive.
- 14.2.3 Managers seeking the advice of the OHS must outline the details of the particular case using the Council's Referral Form. HR will ask employees to sign a consent form giving their permission for the OHS to approach their doctor and/or specialist.
- 14.2.4 In seeking such permission managers should inform their employee why an approach is required and advise them that their employment may ultimately be terminated if they are unable to undertake their duties for medical reasons and no suitable alternative employment can be found. Alternatively, OHS may suggest reasonable adjustments which may help the employee's attendance to be acceptable.
- 14.2.5 Employees are not required to complete the medical consent form. However where an employee refuses to give written permission to approach his/her doctor it may be necessary to take a decision without the benefit of their medical opinion. In such cases HR must be consulted before further action is taken.
- 14.2.6 All medical information will be treated confidentially, will remain with the OHS during and after the application of the procedure and will form the basis on which advice to the Council is formulated.
- 14.2.7 Managers should be persistent in seeking clear and helpful responses from the OHS. This could be by letter setting out the questions that remain un-answered or require clarification or meeting with the OHS Doctor. Such meetings or conversations should be fully noted and placed on the case file.

14.2.8 Managers can request a case conference with the OHS Doctor on more complex cases which can be arranged via HR.

14.3 Outcomes

14.3.1 Managers will be responsible for consulting employees regarding the results of a medical referral and its implications for future employment. If medical advice suggests that an employee is incapable of undertaking his/her duties consideration should be given to either:

- the availability of temporary duties, part time working, or alternative work pending recovery and a return to normal duties
- where recovery is insufficient to enable the employee to return to normal duties, whether suitable alternative employment is available through redeployment in accordance with the agreed policy and procedure of the Council.

14.3.2 Where relevant, the requirements of the Disability Discrimination Act must be taken into account when considering any reasonable adjustments, the availability and/or suitability of alternative employment or whether the termination of employment on the grounds of capability should be considered.

14.3.3 Where the OHS does not recommend ill health retirement but advises that an employee is incapable of fulfilling his/her full range of duties (either permanently or within a reasonable timescale), and no suitable employment can be found, or the employee has indicated that they do not wish to be considered for alternative employment, the employee must be consulted about the outcome of the medical report and any proposal to terminate their employment.

14.3.4 If the manager after considering all the facts of the case forms the view that the employment should be terminated they should arrange to convene a formal Review Hearing.

14.3.5 In cases of recurring bouts of long term absence it may be necessary to hold a formal Review Hearing at an earlier stage of the procedure in anticipation of dismissal taking place at a later date if no improvement occurs.

14.4 See Sections 9 – 13 for information in relation to the Review Hearing.

15. STAFF WITH LESS THAN 6 MONTHS CONTINUOUS SERVICE

15.1 Staff with less than 6 months continuous local government service, at the hearing, will be entitled to an opportunity to answer the case made against them. They will have the right to be accompanied by a representative of their choice.

15.2 The employee will be notified of the hearing date including copies of any documents to be used by management at the Hearing at least 10 days before the Hearing.

15.3 The employee must submit any documentary evidence to the manager identified in the notification letter, at least 3 working days before the date of the hearing.

15.4 All appeals will be lodged with the Assistant Director – Corporate Support Services (HR) within 5 working days of receiving written confirmation of the decision. Employees must clearly state their grounds for appeal.

15.5 The Appeal for any penalty will be heard by a Director, the Deputy Chief Executive or Chief Executive

15.6 See Section 9 – 13 for further information.

16. RESPONSIBILITIES

16.1 All employees are required to adhere to the provisions of this procedure.

16.2 Individual line managers are responsible for ensuring that the procedure is properly implemented within their own areas. Managers should seek advice from HR concerning the application of the procedure prior to any formal action being taken.

16.3 HR are responsible for ensuring the maintenance, review and updating of the procedure.

17. FURTHER GUIDANCE

17.1 Further guidance on the operation, interpretation and application of this procedure is available from HR.