

## MAXIMISING ATTENDANCE POLICY

### 1. PRINCIPLES

- 1.1 The Council considers the health and well being of its employees to be of paramount importance and is committed to providing a high quality working environment for all employees. The Council will aim to promote a positive approach to maximising attendance through flexible working and occupational health.
- 1.2 The Council is committed to the analysis, control and management of attendance levels for three main purposes; to help prevent and reduce absence levels, to respond effectively to actual and potential problems with service delivery, and also to provide assistance to employees with health problems at an early stage. This policy will therefore seek to provide a framework to secure attendance at work for all employees.
- 1.3 It is the clear responsibility of management to monitor, control and report on attendance levels. The Council will lay down standards for attendance and it is the responsibility of the Chief Executive, Service Directors, and all other levels of Line Management (including Headteachers) to ensure these standards are achieved. Key to the success of this policy is effective reporting of attendance levels and managers must take steps to provide reports to the Service Director (or other nominated manager) on the attendance levels at regular intervals.
- 1.4 It is accepted that the vast majority of sickness absence is genuine. However, the Council will aim to distinguish between genuine absence due to sickness and the abuse of the sickness absence system which will be dealt with under the Council's disciplinary procedures.
- 1.5 All employees will be treated in a fair and consistent manner and will be encouraged to seek help with any problems they might have which are resulting in non-attendance at work. Employees may seek assistance from colleagues and/or trade union representatives and they will be afforded the opportunity to involve a representative at any formal point in the application of this policy if they so wish.
- 1.6 The Council will provide comprehensive training and guidance for employees involved in the management of attendance.
- 1.7 Open and regular communication between managers and employees will be encouraged and promoted when an employee is absent due to illness. This will be by agreement at the commencement of any attendance management process but is subject to the agreed minimum criteria as set out in 7.2 of this policy.
- 1.8 The application of this policy does not replace the right of an employee to raise a Grievance under the Council's Grievance Procedure.

### 2. SCOPE

- 2.1 This policy applies to all employees of Dumfries and Galloway Council except Police and Fire Services.

### **3. STANDARDS**

The standards set by Council in respect of attendance are;

- 3.1 Employees are expected to attend work unless unfit to do so. The Council pays employees to attend work; attendance is therefore accepted as the norm.
- 3.2 Line managers/headteachers are accountable for the effective application of the Maximising Attendance Policy.
- 3.3 Line managers/headteachers should approach issues of employee sickness with sensitivity.
- 3.4 As an aid to prevention, employees have a responsibility to raise concerns with their manager or Human Resources if they believe that their job is making them ill or contributing to illness. This ensures that additional support mechanisms can be considered at the earliest opportunity.
- 3.5 Line managers/headteachers will conduct a Return to Work Interview with the employee after every ill health related absence. The purpose of the interview is to establish the current position in relation to the employee's health.
- 3.6 Employees must report sickness absence and work related accidents requiring time off, promptly, in accordance with the reporting procedure, including appropriate certifications as outlined at **Appendix 1**.
- 3.7 In order to ensure that an absent employee neither feels ignored nor harassed Line managers/headteachers must maintain reasonable contact and communicate effectively with employees and their representatives during periods of sickness absence. Employees must remain contactable during periods of absence and are expected to respond to letters, phone messages, e-mails etc. See Section 7 for more detailed information.
- 3.8 Employees must co-operate fully with the Occupational Health Service (OHS) throughout the period of absence. If a medical appointment has been arranged with OHS and the employee fails to attend or fails to provide adequate notice of cancellation without good reason, then sick pay/pay may be withheld and disciplinary action may be considered. Managers considering disciplinary action should, in the first instance, consult Human Resources. Employees should be made aware that the Council is still charged for appointments where employees fail to attend.
- 3.9 Employees must ensure that medical advice and treatment, where appropriate, is received as quickly as possible in order to facilitate a return to work.
- 3.10 National conditions of service provide for reasonable paid time off for preventative medical examinations.
- 3.11 Line managers/headteachers will provide appropriate assistance to the employee with the aim of facilitating a return to work at the earliest opportunity.

### **4. TACKLING THE CAUSES OF SICKNESS ABSENCE – ADDITIONAL SUPPORT**

- 4.1 The Council has developed a range of initiatives designed to support employees and prevent and reduce sickness absence levels including;

- 4.1.1 Occupational Health Service (OHS) – Providing an OHS to provide advice and guidance on the impact of ill health on work and what steps the Council and/or the employee may make in order to secure an early return to work.
- 4.1.2 Counselling Service – to provide a confidential service to employees in order to discuss personal concerns and concerns related to work.
- 4.1.3 Human Resources – to provide support and advice to managers and employees in dealing with employment matters for sickness absence and ill health and in the use of the Council's related policy and procedures.
- 4.1.4 Health improvement policies – developing initiatives which contribute to the improved health and welfare of the workforce supported by the national Healthy Working Lives agenda.
- 4.1.5 Flexible and homeworking arrangements – Extending the scope of flexible and homeworking arrangements to help employees to better achieve a work/life balance.
- 4.1.6 The introduction of new management information systems which will enable managers to receive detailed reports on the causes of absence and identify any trends that may be evident as well as the concentration of absence at a particular location.
- 4.1.7 Senior Management of the Council is committed to the need to continuously improve attendance levels by supporting managers and employees to act to reduce absence levels by identifying the underlying causes of absence, and helping to reduce future absences.

## **5. REPORTING SICKNESS ABSENCE**

- 5.1 Managers must ensure that employees are fully aware of absence reporting procedures including the name and contact details to whom employees must report sickness absence. Unless circumstances make it impossible, contact should be made from the absent employee personally. Managers must ensure that employees are fully aware of the requirement to make contact personally and all employees should be provided with a copy of the notification procedure as outlined in **Appendix 1**.
- 5.2 All employees must inform their line manager/headteacher or other nominated person of the reason for absence. Early notification will enable cover to be arranged where necessary. Ideally, the employee must inform the line manager/headteacher of the absence before commencement of normal working time. Wherever feasible, employees should also indicate the expected duration of absence and any work or service issues that will need to be addressed during that period. If the employee is not able to or willing to reveal the reasons for the absence to the person nominated by the line manager/headteacher to which they have reported their sickness absence, then they must leave contact details for their line manager/headteacher to get back to them. The employee must remain available to be contacted.
- 5.3 It is the individual employee's responsibility that their absence is reported in line with the procedure contained within this policy at **Appendix 1**. Unless there are exceptional circumstances, failure to notify an absence in accordance with this policy will normally result in loss of sick pay/pay and may result in disciplinary action. Managers considering disciplinary action should consult with Human Resources.
- 5.4 Self certificates and medical certificates covering absence must be forwarded to the relevant line manager/headteacher as soon as possible.

- 5.5 Employees covered by SNCT Conditions of Service i.e. teachers, music instructors, educational psychologists, education support officers, quality improvement officers and quality improvement managers should follow the following certification procedure;
- 5.5.1 If the period of absence is for up to 3 days absence then no self certification form should be completed. However, notification of the absence and the reason for it should be notified to the school/council as contained within the notification procedure in Appendix 1.
  - 5.5.2 If the period of absence is for between 4 days and 7 days, then a self certification form must be completed (**Appendix 2**). The form should only cover day 4 to day 7 inclusive.
  - 5.5.3 If the period of absence extends beyond 7 days then a GP certificate is required as well as a self certification form. The self certification form must cover all absences up to 7 days (including days 1 to 3 on this occasion).
  - 5.5.4 Where an employee, who, under this paragraph, is absent for more than 7 days then the Service Director, Schools Services, may require further medical evidence of continued incapacity or submit to a medical examination to the Occupational Health Service. This is in accordance with SNCT Conditions of Service.
  - 5.5.5 Employees covered under SNCT Conditions of Service are required to follow the notification procedure contained at **Appendix 1** and a Return to Work Interview will take place after every absence.
- 5.6 All other employees not listed in Section 5.5 must complete a self certification form after each absence and it must cover all absences. After 7 days then a GP certificate is also required. A Return to Work Interview will take place after every absence.

## **6. MONITORING AND RECORDING SICKNESS ABSENCE**

- 6.1 All sickness absences must be recorded on an appropriate management information system (MIS) i.e. the Council's HR/Payroll system, iTrent. An effective MIS will enable managers to identify and analyse trends in absence by reason/cause, gender, grade, location etc. The system will provide timely reports to Service Directors that clearly identify trends and highlight areas that require attention and support.
- 6.2 A self certification form will be completed by the employee as soon as practicable. Self certification will be required from the start of any period of illness, with the exception of employees who are subject to SNCT Conditions of Service (See paragraph 5.5). See **Appendix 2** for a copy of the self certification form to be used.
- 6.3 All certificates relating to absence must be forwarded to the appropriate person within each section/service/school responsible for recording absence. The Return to Work form may either be kept by the line manager/headteacher or with the appropriate person who records and holds the absence information. The information must be kept secure.
- 6.4 Each manager is required to monitor sickness absence levels within their team and take further action where necessary when trigger points are reached and/or where there are concerns about an employee's absence level or absence pattern. Managers are encouraged to be proactive in this area.

6.5 Line managers/Headteachers must monitor absence levels within their areas of responsibility and report levels to the Service Director on a regular basis.

## **7. MAINTAINING CONTACT WITH EMPLOYEES**

7.1 An employer has a legal right to contact an employee even if they are absent due to illness. Managers must therefore maintain reasonable contact with absent employees. The Council has set out minimum criteria (Section 7.2) which must be carried out as a minimum by both parties. Where there is agreement, more frequent contact can be maintained. Managers should always act sensitively and with consideration for the nature of the illness when in contact with an employee.

7.2 Following the initial contact with an employee regarding notification of absence the line manager/headteacher should contact the employee regularly to enquire about their health and likelihood for a return to work. The minimum contact requirement for short term intermittent absence would be once every two weeks. The minimum contact requirement for long term absence is once every month. As part of the submission of absence management information to Service Directors, Managers must highlight the extent of contact which has taken place for each case.

7.3 Contact by telephone and/or by letter may be appropriate in many cases. Reasonable contact by telephone is permissible however, the wishes of the employee should be considered in this regard. Any meetings would normally be at the employee's place of work or at another Council building. Home visits may be undertaken but only with the employee's agreement.

7.4 It is not reasonable for an employee to refuse to comply with reasonable contact criteria as specified at 7.2.

## **8. RETURN TO WORK INTERVIEWS**

8.1 The purpose of the interview is to welcome the employee back to work, ensure that there is an accurate record of the absence and appropriate certification and update the employee on work issues. Ensure that the Self certificate or GP certificate and previous 12 months absence information is available before the meeting. It is also important to cross reference this information with the trigger guidelines contained within Section 9.

8.2 All employees must be interviewed after each absence, whether short or long term. The discussion should be recorded using a Return to Work Interview form (**Appendix 4**). The meeting should be informal, private and conducted sympathetically as soon after the absence as is practical. The Council recognises that there may be some occasions where a face to face Return to Work Interview is not possible, i.e. geographic distances between line manager/headteacher and employee. Therefore, in circumstances where it is not reasonable to conduct a face to face Return to Work Interview then a telephone discussion can take place. The Return to Work form must still be signed by the manager and employee. Under no circumstances should an attendance management meeting take place via the telephone.

8.3 In order to maximise early intervention and prevention opportunities the line manager/headteacher must establish if there was an occupational factor which contributed to the absence and assure the employee that any work related issues will be addressed where possible.

8.4 With any sickness absence there is likely to be an impact on the Service. However, at a Return to Work Interview the manager should give assurances of their concern, first and foremost for

the employee's welfare. However, where the level of absence is concerning i.e. triggers may have been breached then this must be balanced with their concerns about service delivery and the potential impact on other team members. The line manager/headteacher should also provide information on the availability of support for the employee.

## 9. TRIGGER LEVELS

- 9.1 Absence statistics are monitored on an ongoing basis. A trigger level is the point at which absence cannot be sustained by the Service and which therefore triggers management action, normally starting with Stage 1 Attendance Meeting.
- 9.2 The trigger levels set by the Council are;
- two or more instances of sickness absence in any two month period
  - 10 or more days' sickness absence within any 12 month period
  - any other recurring, recognisable patterns, such as frequent absenteeism on a Friday or a Monday, before or after public holidays or during school holidays
  - any period of unauthorised absence (no self certification or doctors certification received)
- 9.3 Whilst the above triggers should be applicable in most circumstances, the list is not exhaustive and should be seen as the standards to be applied. Managers should be aware that they are entitled to raise concerns about attendance with employees at any stage if it is deemed reasonable and appropriate. Advice from Human Resources is available.
- 9.4 Trigger levels are particularly relevant when dealing with short term intermittent absences. Where there is either a perceived long term absence (usually supported by medical evidence) or actual long term absence then this should be treated as a matter of capability. See section 11 for more information and also procedural flowchart at **Appendix 6**.

## 10. SHORT TERM INTERMITTENT ABSENCE

- 10.1 A short term absence can be defined as any single period of absence, including industrial injury, to a maximum of up to 4 calendar weeks.
- 10.2 Where short term intermittent absence has been identified, a distinction should be made between absences on the grounds of an identifiable underlying medical health problem as opposed to absences where there is no identifiable underlying health problem. The Occupational Health Service would be required to make an assessment on whether there was an underlying medical condition.
- 10.3 In case of illness, where there is an underlying health problem which manifests itself as short term intermittent absences and the underlying health problem is confirmed by the Occupational Health Service, it is not appropriate to take disciplinary action. Where medical examination and/or information reveals an inherent underlying medical problem the employee will usually receive medical treatment, physiotherapy, remedial surgery etc. which will often result in an acceptable rate of recovery and attendance level being achieved. However, where the prognosis is such that frequent or prolonged absences will be a continuing feature the case would require to be treated as one of capability and the employee advised in writing accordingly.
- 10.4 In the case of short term intermittent absence where there is no identifiable underlying health problem the matter should be treated as an attendance issue. Where after investigation no

good reason can be shown for the absence, the matter will be dealt with under the Council's formal Disciplinary Procedures (ACAS Code of Practice).

10.5 Where there is no medical advice to support frequent self certified absences, the employee should be asked to consult a doctor to establish whether medical treatment is necessary and whether the underlying reason for absence is work related. It may also be necessary to consider a referral to the Occupational Health Service.

#### **10.6 Stages – Informal and Formal**

10.6.1 Where a trigger has been breached then in the first instance there must always be an informal meeting with the employee. Where there has already been an informal meeting then there should be a short sequence of formal meetings. At each formal meeting in the procedure, the employee may be accompanied if they wish. A note of each meeting should be kept and a copy given to the employee.

#### **10.7 Stage 1: Attendance Meeting (Informal)**

10.7.1 The line manager/head teacher will normally discuss attendance informally with an employee and will agree a monitoring plan that will include timescales (usually 2 months). Ideally the informal meeting should be part of the Return to Work Interview. This will be recorded and filed in the relevant personnel folder, a copy being given to the employee concerned.

#### **10.8 Stage 2 and Stage 3: Attendance Meetings (Formal)**

10.8.1 If there is no improvement in an employee's attendance as a result of the Stage 1 meeting then a series of formal meetings will be held with the employee to look at options for resolution. Employees will have the right to be accompanied by a work colleague or a trade union representative.

10.8.2 The following points should be discussed at each formal meeting;

- the unacceptable level of attendance
- confirmation of the monitoring period of the next 12 months with reviews after each 2 month period
- If the necessary level of attendance is achieved over the 12 months close monitoring period, there will be no further action and normal management monitoring of attendance will resume
- a clear explanation of the problem
- frequency and duration of sickness
- reasons for poor attendance including any underlying medical problems, personal, domestic or work-related difficulties and ways in which improvement can be achieved and maintained with appropriate support from the Council
- whether or not it is necessary to restrict the use of the self certification process (e.g. GP certificate required for every absence) until the end of the close monitoring period

10.8.3 If, after Stage 2 meeting it becomes clear that attendance remains unacceptable during the close monitoring period, then the matter can be progressed to Stage 3 before a successive 2 month review period has been reached.

10.8.4 The Stage 3 Attendance Meeting should follow the same sequence of events as Stage 2. However, where the matter has been referred to Stage 3 and there is still no material improvement then consideration should be given to refer the matter to either; a) the Council's

formal disciplinary procedure (i.e. where there is no underlying medical reason for the absence) or b) a capability hearing (i.e. where there is an identified underlying medical reason for the absence).

10.8.5 As a result of any meeting, action taken may include; referral to OHS to establish any underlying reasons for absence or whether suitable adjustments to the employee's working environment will be appropriate and practicable for both parties as a remedy for the absence issue. However, consideration should be given to initiate a referral immediately if the GP certificate indicates that there may be; a work related stress illness, back or neck pain, or other musculoskeletal disorder.

10.8.6 If a decision is made to refer the employee to the OHS, then following the appointment and on receipt of their report, the line manager/headteacher and the employee will meet to discuss any changes to the action plan. The employee will have the right to be accompanied at this meeting by a work colleague or trade union representative if they so wish.

10.8.7 **Appendix 6** shows the procedure to be followed.

## **11. LONG TERM ABSENCE**

11.1 Absences lasting over four weeks are considered long term. The primary aim, in dealing with cases of long term absence, should be to facilitate a return to work at the earliest reasonable point.

11.2 Where it is expected that an absence will be ongoing and will continue for more than one month, advice should be sought as soon as possible from the OHS practitioner. However, consideration should be given to initiate a referral immediately if the GP certificate indicates that there may be; a work related stress illness, back or neck pain, or other musculoskeletal disorder.

11.3 The line manager/headteacher should arrange to meet with the employee on a regular basis and the matter must be treated sensitively. Normally a meeting/contact should occur at least once a month at the normal workplace; however, where the employee is too unwell to attend the workplace this should be recognised. It would therefore be appropriate to suggest an alternative venue which may be the employee's home. Further discussions with the employee should take place more frequently where necessary but always by agreement. An employee is entitled to be represented by a fellow worker or trade union representative at any meeting. The agenda for the meeting must be on the basis of;

- enquiring about the health and wellbeing of a colleague and establishing the current state of health
- the likely duration of the sickness absence
- the employees expectations about his/her future fitness to return to work
- whether or not a referral to OHS would be appropriate or to discuss the latest OHS report and the ongoing medical situation
- keep the employee fully informed of any difficulties and proposed action
- give the employee the opportunity to discuss any difficulties and concerns
- keep the employee regularly advised of the sick pay situation particularly before the onset of half pay and sick pay exhaustion where appropriate

11.4 Employees also have an obligation to maintain regular contact with their line manager/headteacher to keep them informed of their progress and likely date of return. Employees are also expected to attend the OHS when required to do so.

- 11.5 Ultimately, the Council has to balance the needs of the employee with the need to maintain and provide good quality services. Prolonged absences, particularly in the light of a history of previous illness, may in certain circumstances cause such severe difficulties that a decision has to be made on whether or not the employment can continue, regardless of any sick pay situation.
- 11.6 Taking into account the advice received from OHS and through discussions with the employee, one or more of the following actions may be taken;
- reasonable adjustments such as changes to the workload, work practices, or work pattern maybe identified and implemented, either as part of a phasing the employee back to work or on a more permanent basis
  - other support mechanisms may be identified and implemented
  - redeployment under the Council's Redeployment Policy
  - investigations may take place into whether the employee may be eligible for ill health retirement pension benefits
  - review periods may be set, with further advice obtained from OHS
- 11.7 Where the employee's work has caused or contributed to the employee's illness, the issues must be fully explored by the manager and steps should be taken to ensure they are addressed preferably before the employee returns to work.
- 11.8 Any actions being contemplated will be discussed with the employee and their representative if applicable before any decisions are taken.
- 11.9 Progress will be kept under review. As part of this process, decisions may need to be made about the employee's continued employment, leading to the decision to dismiss the employee due to their incapability to undertake their job due to ill health. The employee will be informed at appropriate points where this is a possibility.
- 11.10 Where an employee is not permanently unfit (in accordance with Occupational Health advice) then their case should be reviewed on a regular basis following the recommendations from the OHS reports where possible. The review process must continue until there is a return to work or it becomes clear that a return to work within a reasonable timescale, acceptable to management, is not possible.

## **12. OCCUPATIONAL HEALTH REFERRAL**

- 12.1 The purpose of an OHS referral and examination of an employee by a Doctor qualified in Occupational Health Medicine is to provide Managers with advice that will assist them in managing the attendance of an employee. The report provided by the OHS does not contain an employee's full medical history and details. It contains recommendations and advice only in relation to how an employee's health problems impact on their ability to carry out the duties of their post. **Appendix 3** has an OHS referral template
- 12.2 OHS referrals play a critical role in managing attendance and may occasionally be appropriate in the management of performance issues. A referral is beneficial for both the manager and employee. It should be regarded positively and not as a punitive measure. The form is crucial to obtaining the best information and advice from the OHS and as such it is vital that a Manager completes the form correctly and provides sufficient information within the remarks

box to enable the Doctor to respond effectively and accurately to the concerns raised. Human Resources can offer advice or guidance to managers as required.

- 12.3 In relation to short-term absence and following a Return to Work Interview, where it has been identified that there is a potential underlying health problem then an OHS referral should be discussed with the employee. If there is no indication that there is an underlying health problem then managers should continue with the procedure. Always obtain an up to date medical report before taking a decision to dismiss (the date of the report must be less than 12 weeks from the date of a hearing).
- 12.4 In relation to long-term absence, management must consider the nature of the illness and length of absence. Certain health problems may benefit from early intervention. Consideration should be given to immediately refer employees to the OHS when a GP's certificate indicates the following diagnoses: work related stress illness and back/neck pain or other musculoskeletal problems (e.g. arthritis). Referral of other problems is recommended after 28 days from the start of absence and normally no later than eight weeks. In other situations where the prognosis/timescale for a return to work is clearer (e.g. where an employee is recovering from planned surgery/fracture) referrals may be delayed.
- 12.5 Ideally line managers/headteachers should meet with the employee to discuss the potential referral. If a meeting is impractical (e.g. due to timeframe, logistics) line managers/headteachers should at least inform the employee of the intention to refer to the OHS and give them an opportunity to discuss the referral. The employee must be fully aware of the contents of the referral before it is sent to the OHS.
- 12.6 In preparation for a capability hearing, Managers must have asked the OHS to make a determination as to whether or not the illness would be regarded as permanent.

### **13. PHASED RETURN TO WORK SCHEME**

- 13.1 On some occasions OHS advice might suggest that consideration should be given to a phased return to work for an employee who has been absent due to illness. A phased return to work can help the employee to acclimatise back to the work routine and work tasks, while also checking they are fit enough to return. This could take the form of a temporary reduction in hours or temporary alternative duties.
- 13.2 The length of the phased return to work should last no longer than six weeks from the return to work date but could be shorter dependent on OHS advice and the fitness of the employee.
- 13.3 In order to maximise the opportunity for a full return to duties, the Council will, in good faith, pay the normal pay for the job during the part time phased period as though the employee had returned to work the normal contractual hours.
- 13.4 Once an employee returns to work, whether it is a phased return or not, then statutory sick pay rules no longer apply.
- 13.5 If there is a requirement to extend the phased return period beyond six weeks then this should be accommodated. However, the employee will be paid according to the actual number of hours worked. The Council must ensure that a return to full duties is enhanced by the application of the phased return to work scheme and as such the scheme should not be seen as an extended or unregulated arrangement to pay full time pay for part time work. Note: - sick pay and sick pay entitlement is not being exhausted whilst an employee is on the phased return to work scheme. If there is evidence that an employee is unable to return to normal

duties following an extended phased period, then managers and employees must consider making the change to reduced hours a permanent arrangement. If an employee is unable to agree to a permanent change to reduced hours then a capability process may have to be invoked.

- 13.6 In exceptional circumstances, consideration may be given to extending the normal pay period of phased return to work beyond the six weeks period. This will be strictly monitored and subject to regular management review. It will be up to the discretion of the Service Director (or other nominated officer), in consultation with Human Resources, to decide whether or not to extend full pay beyond the six weeks period.

#### **14. PERMANENT INCAPACITY DUE TO ILL HEALTH**

- 14.1 If the advice from the OHS is that the employee is permanently unfit to fulfil their current role then a formal meeting will take place to discuss options.
- 14.2 The Council must consider alternative work, even if it is at a lower grade, lower status or at different hours and location. The requirements of the Disability Discrimination Act 1995 must also be taken into consideration and applied wherever possible.
- 14.3 The Council will not create a new or special job for the employee concerned. If the employee moves to a new post which is at a different grade or attracts different terms and conditions of service than their previous post, then they will take the terms and conditions of service and salary of the new post.
- 14.4 In order for all options to be explored fully, it is important that the employee attends all OHS appointments. Where an employee refuses to co-operate in providing the required medical evidence, he/she will be advised in writing that a decision will be taken on the information available and that it may result in termination of employment.
- 14.5 Where it is clear from medical advice that an employee will no longer be able to continue the duties they are contracted to undertake and no alternative work is available, the option of taking ill-health retirement will be considered as an alternative to termination of employment on grounds of ill health.
- 14.6 If ill-health retirement is not appropriate and no alternative work is available, termination of employment with the relevant contractual period of notice will be considered. This would be on the grounds that the individual is no longer fit to perform their duties due to ill health. The employee will have the right to appeal against this termination of employment.

#### **15. CAPABILITY HEARINGS**

- 15.1 The purpose of a capability hearing is to update all parties on the current absence in a formal setting; including updates on medical advice and reports, prognosis for improvement, reasonable adjustments which were or could be made to help to facilitate a return to work, any further actions or support that could be offered and update the employee on issues within the workplace. A capability hearing may also result in a dismissal on the grounds of incapability but only after all other options have been exhausted. **See Appendix 5 for procedure.**
- 15.2 Normally a decision to dismiss an employee at a capability hearing would be of last resort and consideration will only be given to this as an outcome where all other options to return to work have been exhausted.

- 15.3 Unless there are exceptional circumstances, an employee should have attended at least two formal attendance management meetings to discuss the ongoing absence and reasonable adjustments required to enable a full return to work. This ensures that the employee has been fully consulted on the impact of the illness, on the actions proposed and taken by the employer and the likelihood of an inability to return to work within a reasonable timescale.
- 15.4 A capability hearing would be used for both short and long term absence from work where there is an underlying medical reason for the absence.
- 15.5 A manager will arrange to meet the employee and his or her representative to discuss the latest occupational health report. If a sustained return to work, within a reasonable timescale is not possible, dismissal may apply. The employee must be made aware that this is a possible outcome.
- 15.6 If the above alternatives to dismissal are impractical, the employee will be expected to attend a formal capability hearing where he or she may be dismissed on the grounds of capability due to ill health. Even if the employee indicates that he or she is unable to attend such a hearing every effort should be made to postpone the hearing (up to 5 working days) to ensure that the employee attends. An employee must be fully aware, prior to attending the hearing, that one of the possible outcomes of the capability process is dismissal (letter inviting employee to attend must explicitly state this). It is therefore in the best interests of the employee to be able to state a case and bring new information as appropriate. A manager with delegated authority to dismiss must conduct the capability hearing. A representative from Human Resources will be present at the hearing.
- 15.7 When reaching a decision about whether or not to terminate employment, the manager with the authority to dismiss will consider issues such as:
- the need for the work to be undertaken
  - the impact of the employee's absence and ill health on other employees and service delivery
  - the employee's absence record
  - financial and cost implications
  - the level of consultation with the employee during the absence
  - representations made by employee/representative
  - what actions have been taken to attempt to enable the employee to continue in employment
  - the medical advice received
  - has the OHS been asked to give an opinion on whether the illness is permanent
- 15.8 The decision to dismiss must be confirmed within 5 working days and the employee advised in writing of the right of appeal.

**PROCEDURE FOR NOTIFYING AND CERTIFYING NON ATTENDANCE****NOTIFICATION PROCEDURE****Stage 1**

On the first day of sickness, all employees must notify the immediate line manager/headteacher or nominated person. Unless circumstances make it impossible, contact from the employee should be made personally. Therefore, leaving messages out with working time, contacting colleagues to relay messages, text messages etc will not be a permissible way to notify an absence. The absence must be reported before the commencement of normal working time and no later than two hours after the normal starting time\*.

If the line manager/headteacher or nominated person is not available a contact number should be left so that further contact can be made by the line manager/headteacher to the employee as soon as possible thereafter.

During this communication, employees are expected to give details of;

1. The reason for the absence. In case of sickness an employee must state what it is believed to be wrong with them, headache, cold etc. Vague terms such as ill, sick or not well are not acceptable.
2. \*The reason for failing to notify the absence before normal working time (if applicable). *Failure to provide a sufficient explanation for the late notification may result in a loss of sick pay/pay and/or disciplinary proceedings.*
3. The likely duration of the absence.
4. The date sickness first commenced, whether or not this is on a working day.
5. Any issues within the workplace, if appropriate that can be addressed during the absence.

Where no contact has been made, either before normal work time or two hours after normal work would have commenced, arrangements must be made by the line manager/headteacher to contact the employee including arrangements for a home visit where necessary.

**Stage 2**

If absence continues to the fourth day, all employees must contact the line manager/headteacher to advise whether the absence is likely to continue.

**Stage 3**

If the absence is for longer than 7 days, all employees must submit a Doctor's Certificate, wherever practicable, not later than the 8th calendar day of absence. Where the 8<sup>th</sup> calendar day occurs on a Saturday/Sunday and this is not a normal working day the employee must ensure the certificate arrives on the next normal working day. The employee must also maintain contact with the line manager/headteacher and vice versa.

**Stage 4**

For prolonged absence further Doctor's Certificates must be submitted as required. With longer term absence it is good management practice to keep in touch to check progress, keep the employee updated with developments at work and to assess if any available assistance can be offered during the absence. Normally any meeting would occur on Council premises, however, if the employee would prefer for this meeting to be in their home then this should be accommodated.

## **CERTIFICATION PROCEDURE**

There are generally two forms which required to be completed as part of normal attendance management, these are; the self certificate form (**Appendix 2**) and the GP certificate.

### **The Self Certificate**

Employees covered by SNCT Conditions of Service i.e. teachers, music instructors, educational psychologists, education support officers, quality improvement officers and quality improvement managers must follow the following self certification procedure;

- If the period of absence is for up to 3 days absence then no self certification form should be completed however a reason for the sickness absence must still be given. To ensure consistency in recording information, the reason for sickness should match those contained within the self certificate form list.
- If the period of absence is for between 4 days and 7 days, then a self certification form must be completed. The form should only cover day 4 to day 7 inclusive.
- If the period of absence extends beyond 7 days then a self certification must be completed and must cover all absences from day 1 up to and including day 7.
- Where an employee, who, under this paragraph, is absent for more than 7 days then the Service Director, Schools Services, may require further medical evidence of continued incapacity or submit to a medical examination to the Occupational Health Service. This is in accordance with SNCT Conditions of Service.

All other employees must follow the following self certification procedure;

- A self certificate must be completed after every day of absence up to and including day 7.

### **The GP Certificate**

All employees are required to produce a medical certificate from a GP to cover any period of absence which exceeds 7 days.

### **The Self Certificate and the GP Certificate**

GP certificates should only cover absence after 7 days. Under these circumstances a self certificate must be completed in line with the procedure outlined above. On the rare occasion that a GP certificate covers the whole period of absence i.e. including the first 7 days, it is still a requirement of this policy that all employees complete a self certificate as outlined in the procedure above.

**Note: It is essential that employees follow this procedure as failure to do so without good reason the sickness allowance will cease for that day and/or disciplinary proceedings may be invoked.**

## SICKNESS ABSENCE SELF-CERTIFICATION FORM APPENDIX 2

### SECTION 1: To be completed by the employee (refer to notes overleaf for completion)

<b>Employee Name:</b>		<b>Employee Number:</b>	
<b>Directorate:</b>		<b>Job Title:</b>	

<b>Date sickness absence started*</b> DD/MM/YY		<b>Last date of sickness absence:</b> DD/MM/YY	
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\* Please note that all days should be counted, not just working days, in line with Statutory Sick Pay requirements

#### Daily Hours Lost Due to Absence: (See guidance note attached overleaf)

Day of Week absence commenced (Please circle)	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Enter the days you would normally work in this period (Tick only)							
Enter the number of hours/mins due to work on each sick day							
Enter the number of hours/mins you were absent due to sickness							

#### Reason for absence: (please tick appropriate box)

Viral Infection		Stomach, Liver, Kidney, Lung & Digestion (inc. diarrhoea, vomiting and stomach upset)	
Eye, Ear, Nose and Mouth/Dental		Back Problems	
Stress/depression/Mental Health/Fatigue Syndrome (inc. anxiety, nervous debility/disorder & M.E.)		Other Muscular Skeletal Disorders (inc. neck, legs, feet, arms or hands; also joint problems such as arthritis)	
Work Related Stress		Critical Illness (inc. cancer, major organ transplant, stroke etc)	
Migraine/Headache		Surgery Related Absence	
Cold/Flu/Measles (inc. coughs, throat, infections, etc)		Accident at Work	
Chest, Respiratory (for example asthma, bronchitis, hayfever).		Accident outside work	
Heart, Blood/Blood Pressure, Circulation, (incl. Diabetes)		Addiction	
Neurological illness (inc. Epilepsy, motor neurone Disease)		Swine Flu	
Other reasons for absence (This code <b>must only be used</b> if the sickness/absence is not listed above)			

#### **DECLARATION**

- I declare the reasons shown for my absence and the information given on this form is correct, to the best of my knowledge. I understand that making a false statement may result in disciplinary action being taken and sick pay being withheld or recovered.
- I attach a medical certificate from my GP, where my absence was for more than 7 days,
- I believe that my absence was caused wholly or partly by my work. **YES/NO** (Please delete as appropriate)

<b>Employee Signature:</b>		<b>Date:</b>	
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#### Section 2 - To be completed by the Line Manager

I certify that I have:

- discussed this absence with the employee
- ensured that the necessary certifications are completed and forwarded as appropriate
- checked that the employee has completed the declaration fully including the Yes/No declaration

<b>Signature of Line Manager:</b>		<b>Date:</b>	
<b>Job Title</b>			

# SICKNESS ABSENCE SELF-CERTIFICATION FORM APPENDIX 2

## GUIDANCE NOTES

### **EMPLOYEE RESPONSIBILITIES**

If you are unable to come to work due to ill health, you must notify your line manager, giving the reason, as quickly as possible on **the first day of absence**. Notification must be in accordance with the Maximising Attendance Policy and delay could jeopardise your pay entitlement.

If your absence **continues after the third working day** you must contact your line manager again to provide an update as to the nature and possible duration of your illness.

This form **must** be completed for all periods of sickness absence –

- If the absence is for **less than 7 days** the form can be completed upon return to work.
- If the absence continues for **more than 7 days**, your line manager will send you a self certification form for completion, signature and submission to your line manager. In addition, a **medical certificate** must be obtained and submitted immediately to your line manager.

### **PURPOSE**

Sickness absence records are kept to monitor overall sickness absence trends across the Council and to enable line managers to monitor individual absence levels/trends, discussing with and supporting employees where appropriate issues are identified in line with the Maximising Attendance Policy. In addition, the Council must meet statutory obligations in relation to sick pay and statistical returns for example, Best Value Performance Indicators. All records are kept confidentially and access to them restricted.

The section overleaf entitled '**Daily Hours Lost Due to Absence**' should be completed in order to assist with accurate absence recording and management information, guidance for completing this section are as follows:

<b>Enter the days you would normally work in this period (Tick only)</b>	Enter the days you would normally expect to work during the period of sickness absence (NB weekends should be included where appropriate).
<b>Enter the number of hours/mins due to work on each sick day</b>	State the hours/mins expected to be worked during the period of sickness absence. Only enter a value on an actual sick day.
<b>Enter the number of hours/mins you were absent due to sickness</b>	State the number of hours/mins absent for each sick day only.

### **DATA PROTECTION**

The information given in this form will be processed for calculating sick pay entitlements and absence monitoring purposes in accordance with the Data Protection Act and associated legislation.

### **OCCUPATIONAL HEALTH / ACCESS TO MEDICAL RECORDS**

In accordance with the relevant conditions of service, the Council may, at its discretion, refer an employee to the Occupational Health Physician or other medical practitioner, as appropriate. Medical evidence relevant to periods of absence may also be obtained from an employee's doctor or by a doctor nominated by the Council with the employee's consent. Any referral will have regard to the provisions of the Access to Medical Reports Acts 1988. The intention is to provide Occupational Health with a measure of access to medical reports provided by your doctor. This is achieved by giving you a right to see, comment on and consent to the provision of such reports.

**DUMFRIES AND GALLOWAY COUNCIL  
OCCUPATIONAL HEALTH SERVICE MEDICAL REFERRAL FORM**

<b>To:</b> <p align="center">C-MIST</p> <b>Phone:</b>	<b>From:</b> Group Manager Human Resources Dumfries and Galloway Council Human Resources 118 English Street DUMFRIES DG1 2DE  <b>Phone:</b> (01387) 260062
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**EMPLOYEE DETAILS**

*Please complete both sides of form and enclose relevant employee job description  
- incomplete forms will be returned.*

<b>Surname:</b>		<b>Mr / Mrs / Miss / Ms:</b>	
<b>Forename(s):</b>		<b>Post held:</b>	
<b>Date of Birth:</b>		<b>Place of employment:</b>	
<b>Home Address:</b>		<b>Date Appointed:</b>	
		<b>Pay Number:</b>	
		<b>Total Council Service:</b>	years          months
<b>Telephone No:</b>		<b>Superannuated:</b>	YES/NO
<b>General Practitioner</b>	<b>Name:</b>		
	<b>Address:</b>		

I request that an Occupational Health referral for the above named employee for the following reason(s) (tick):

1. Has been absent from work, ascribed to illness, on a number of occasions during the past 12 months. I should be grateful if you would arrange an Occupational Health assessment of the employee.
2. Has been absent, sick, for over four weeks. I should be grateful for Occupational Health advice on the likelihood of the employee's early return to work and/or their opinion on his/her suitability to continue in his/her present post.
3. I have identified particular trends with his/her absences (please detail): \_\_\_\_\_  
\_\_\_\_\_
4. I have identified that there may be a particular health problem relating to:- \_\_\_\_\_  
which is causing concern on his/her ability to perform his/her duties and I would like Occupational Health to explore this in more detail
5. Prior to the employee's "return to work", I require an opinion on the individual's status of health because of:-  
\_\_\_\_\_
6. Has been exposed to a known health risk \_\_\_\_\_ (detail) and would be grateful for an expert Occupational Health assessment.
7. I have completed risk assessments for DSE worker/pregnant worker (attach copies) and have identified the following health issue which require Occupational Health advice/input.

**Sickness Absence Details** (during the past 24 months)

Dates		No. Days	Give Reason(s) for Absence
From	To		
<b>REMARKS:</b> (Managers are requested to provide as much detail as possible attaching separate pages where necessary)			

**REQUEST TO OCCUPATIONAL HEALTH:**

In respect of the above referral and as Manager of the employee, please let me know in confidence.

- a) If there is an underlying medical cause for these absences.
- b) If the individual is/will be fit to return to work and a provisional indication of timescale involved.
- c) How we can assist this individual to be rehabilitated successfully back to work/DDA requirements.
- d) Whether the individual is safe and able to return to work and perform the full range of duties of post.
- e) If their job is unsuitable, what type of work are they able to undertake.

I have discussed these absences with the employee concerned and have interviewed and counselled him/her to explain the reason for this referral. I undertake to keep you informed of any changes which may affect your assessment of this employee. I understand that this will form part of the individual's personal Occupational Health Medical Records which are strictly confidential to Occupational Health Medical and Nursing Staff.

**Signed:** \_\_\_\_\_ **Designation:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_ **Tel No:** \_\_\_\_\_  
**Service :** \_\_\_\_\_

*Forms should be completed by the Line Manager of the employee who is to be referred then passed under confidential cover to the Directorate OH Co-ordinator.*

**Signed:** \_\_\_\_\_ **Designation:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Print Name :** \_\_\_\_\_  
**Directorate:** \_\_\_\_\_

Forms should be signed by OH Co-ordinator and passed to the Group Manager Human Resources who will authorise or reject and/or seek further information on the referral having due consideration to the circumstances.

**Authorised :** \_\_\_\_\_ **Designation:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Print Name :** \_\_\_\_\_ **On behalf of Operations Manager Human Resources**

## Maximising Attendance: Return to Work Form

Please refer to Section 8 of the policy before conducting a return to work interview.

### Section 1

Employee's name \_\_\_\_\_

Manager's name \_\_\_\_\_

Absence Start Date	Absence End Date	Working Days Lost	

Notification/Certification Procedure followed Yes/No Date of Meeting \_\_\_\_\_

### Section 2 – Managers should have a copy of the Maximising Attendance Policy to hand

	✓		✓
Welcome employee back to work		Check employee is fit to return	
Complete certification process		Discuss and agree absence record (print off 12 month history)	

### Section 3

Check employee awareness of: -	✓	Check with employee if: -	✓
Trigger Levels		Any underlying medical condition	
Impact of their absence (Discuss positively what now needs to be done at work)		Any work related factors contributing to absence	
Consequences of their absence (Discuss when trigger has been breached only)		Any other reasons	

### Section 4

Consider Supports	✓	Supports Agreed: -
Support mechanisms e.g. counselling, Citizens Advice		
Reasonable adjustments e.g. equipment, flexible working, lighter duties (using OH Advice)		
Explore other ways of improving attendance (Referral to OH, flexible working)		

### Section 5 Outcomes (please circle)

No Action: -	Action Taken, Trigger Breached: -
Trigger Not Breached / other Management concerns	Attendance meeting 1/ Attendance meeting 2/ Attendance meeting 3/ Capability Hearing/Disciplinary Hearing

Employee's signature \_\_\_\_\_ Date \_\_\_\_\_

Manager's signature \_\_\_\_\_ Date \_\_\_\_\_

**CONDUCT OF CAPABILITY HEARINGS**

1. Employees should be given a minimum of 10 working days' notice of a Capability Hearing although this can be shorter by agreement.
2. Hearings can be postponed by a period of up to 5 working days to ensure the employee attends.
3. The business discussed in Capability Hearings is confidential.
4. Employees must be made aware in advance of the possible outcomes of the Capability Hearing
5. At the time of the notification of the Hearing, the employee and his/her representative will be given copies of any relevant papers/documents.
6. The Head of Service or nominated officer of appropriate seniority will be assisted by such advisers as he/she deems appropriate. In Hearings where dismissal is a possible outcome, a representative from Human Resources will be present
7. A nominated officer (hereinafter referred to as the Authority's Representative) will outline the authority's position in the presence of the employee and the employee's representative and may call witnesses.
8. Where witnesses are called, they will be heard separately and will withdraw when questioning is complete.
9. The employee and representative will have the opportunity of questioning the Authority's Representative and witnesses on the evidence given.
10. The employee or his/her representative will put his/her case in the presence of the Head of Service or nominated officer and call such witnesses as he/she wishes.
11. The Authority's representative will have the opportunity to question the employee and his/her witnesses.
12. The Authority's representative and subsequently the employee or his/her representative will have the opportunity to sum up their case if they so wish but not introduce new evidence at this stage.
13. The Authority's representative, the employee and his/her representative and any person other than the Head of Service or nominated officer and his/her advisors, will then withdraw.
14. The Head of Service or nominated officer with the officers appointed to advise him/her will deliberate in private, only recalling the Authority's representative or the employee to clear points of uncertainty pertaining to either case. If such recall is necessary, both parties are to return, even if only one is concerned with the point, giving rise to doubt.

15. The Head of Service, or nominated officer, at his/her discretion will reconvene the hearing to directly announce the decision or he/she may do so either in writing to both parties within 5 working days of the hearing.
16. Appeals against any formal action must be lodged with the Head of Service, or nominated officer, within 14 days of the letter setting out the formal action. The appeal will be heard by the appropriate committee of Dumfries and Galloway Council
17. If no formal action is to be taken, all references to the case shall normally be removed from the employee's personal file and destroyed.

**Maximising Attendance Procedure – Flow Diagram**

This diagram shows the steps taken if poor attendance continues.

